occupational safety and health at specified privatized facilities and operations on DOE sites. The 2000 Memorandum of Understanding specifically covers facilities and operations on lands that have been leased to private enterprises, which are not conducting activities for or on behalf of DOE, and where there is no likelihood that any employee exposure to radiation from DOE sources would be 25 millirems per year (mrem/yr) or more.

In a letter dated February 27, 2007, DOE requested that OSHA accept occupational safety and health regulatory authority at two locations pursuant to the MOU on Safety and Health Enforcement at Privatized Facilities and Operations, dated July 25, 2000. The request was for OSHA to accept regulatory oversight for the construction phase of the Theory and Computing Sciences (TCS) building at the Argonne National Laboratory in Illinois, as well as the transfer of oversight for six existing buildings and support facilities at the East Tennessee Technology Park (ETTP) in Oak Ridge, Tennessee.

OSHA's Regional Office in Chicago, IL, working with OSHA's Aurora Area Office, determined that OSHA should accept authority for the construction phase of the Theory and Computing Sciences (TCS) building at the Argonne National Laboratory in Illinois. The Aurora Area Office has been in contact with the DOE, as well as with the general contractor, regarding the construction phase of the project. These offices are satisfied with DOE assurances that (1) this facility is operationally independent of DOE activities during the construction phase, (2) there is no likelihood that any employee exposure to radiation will be 25 millirems per year (mrem /yr) or more, and (3) the transfer of authority to OSHA is free from regulatory gaps, and does not diminish the safety and health protection of the employees. OSHA, therefore, accepted health and safety regulatory authority for the construction phase of the TCS building. When construction of the TCS is complete, DOE will contact OSHA to inform it of the type of work to be performed at the completed TCS.

OSHA's Regional Office in Atlanta, GA, working with the OSHA Nashville Area Office, and the Tennessee Occupational Safety and Health Administration (TOSHA), determined that TOSHA is willing to accept authority for the six existing buildings and support facilities at the East Tennessee Technology Park in Oak Ridge, Tennessee that were transferred by deed to the Community Reuse Organization of East Tennessee (CROET). TOSHA is satisfied with DOE assurances that (1) there is no likelihood that any employee at these facilities will be exposed to radiation levels that will be 25 millirems per year (mrem/yr) or more, and (2) transfer of authority to TOSHA is free from regulatory gaps, and does not diminish the safety and health protection of the employees. Therefore, TOSHA accepted and maintains health and safety regulatory authority over buildings K–1007, K–1225, K–1330, K–1400, K–1580, K–1007A, and K–1036. Accordingly, after reviewing pertinent information, OSHA and TOSHA, in a letter to DOE dated December 18, 2007, agreed to accept regulatory authority for occupational safety and health over these sites.

This **Federal Register** notice provides public notice and serves as an addendum to the 1992 OSHA/DOE MOU. This document was prepared under the direction of Thomas M. Stohler, Acting Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210. This action is taken pursuant to section 8(g) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)) and Secretary of Labor's Order No. 5–2007 (72 FR 31159).

Signed at Washington, DC, December 15, 2008.

Thomas M. Stohler,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E8–31135 Filed 12–31–08; 8:45 am]

BILLING CODE 4510–26–P

MILLENNIUM CHALLENGE CORPORATION

[MCC FR 09–04]

Report on the Selection of Eligible Countries for Fiscal Year 2009

AGENCY: Millennium Challenge Corporation.

ACTION: Notice.

SUMMARY: This report is provided in accordance with section 608(d)(1) of the Millennium Challenge Act of 2003, Public Law 108–199, Division D, (the ''Act''), 22 U.S.C. 7708(d)(1).

The Act authorizes the provision of Millennium Challenge Account (''MCA'') assistance under section 605 of the Act to countries that enter into compacts with the United States to support policies and programs that advance the progress of such countries in achieving lasting economic growth and poverty reduction, and are in furtherance of the Act. The Act requires the Millennium Challenge Corporation (''MCC'') to take steps to determine the countries that, based on their demonstrated commitment to just and democratic governance, economic freedom, and investing in their people, as well as the opportunity to reduce poverty and generate economic growth in the country, will be eligible to receive MCA assistance during the fiscal year. These steps include the submission of reports to appropriate congressional committees and the publication of notices in the **Federal Register** that identify, among other things:

1. The countries that are ''candidate countries'' for MCA assistance during FY09 based on their per-capita income levels and their eligibility to receive assistance under U.S. law, and countries that would be candidate countries but for specified legal prohibitions on assistance (section 608(a) of the Act; 22 U.S.C. 7708(a));

2. The criteria and methodology that the Board of Directors of MCC (the Board) will use to measure and evaluate the relative policy performance of the candidate countries consistent with the requirements of section 607 of the Act in order to select ''MCA eligible countries'' from among the ''candidate countries'' (section 608(b) of the Act, 22 U.S.C. 7708(b)); and

3. The list of countries determined by the Board to be ''MCA eligible countries'' for FY09, with justification for eligibility determination and selection for compact negotiation, including which of the MCA eligible countries the Board will seek to enter into MCA compacts (section 608(d) of the Act, 22 U.S.C. 7708(d)).

This is the third of the above-described reports by MCC for fiscal year 2009 (FY09). It identifies countries determined by the Board to be eligible under section 607 of the Act for FY09 (22 U.S.C. 7706) and countries with which the Board will seek to enter into compacts under section 609 of the Act, as well as the justification for such decisions.

Eligible Countries

The Board met on December 11, 2008 to select countries that will be eligible for MCA compact assistance under section 607 of the Act for FY09. The Board selected the following countries as eligible for such assistance for FY09: Colombia, Indonesia, Jordan, Malawi, Moldova, the Philippines, Senegal, and Zambia.

In accordance with the Act and with the ''Report on the Criteria and Methodology for Determining the

Eligibility of Candidate Countries for Millennium Challenge Account Assistance in Fiscal Year 2009'' submitted to the Congress on October 9, 2008, selection was based primarily on a country's overall performance in relation to three broad policy categories: (1) ''Ruling Justly''; (2) ''Encouraging Economic Freedom''; and (3) ''Investing in People.'' The Board relied upon 17 transparent and independent indicators to assess to the maximum extent possible policy performance and demonstrated commitment in these three areas as a basis for determining which countries would be eligible for MCA compact assistance. In determining eligibility, the Board considered if a country performed above the median in relation to its peers on at least half of the indicators in the Ruling Justly and Economic Freedom policy categories, above the median on at least three of five indicators in the Investing in People policy category, and above the median on the ''Control of Corruption'' indicator. The Board also took into account whether the country performed substantially below the median on any indictor and if so, whether it is taking appropriate action to address the shortcomings. Scorecards reflecting each country's performance on the indicators are available on MCC's Web site at *http://www.mcc.gov*.

The Board also considered whether any adjustments should be made for data gaps, lags, trends, or recent events since the indicators were published, as well as strengths or weaknesses in particular indicators. Where appropriate, the Board took into account additional quantitative and qualitative information, such as evidence of a country's commitment to fighting corruption and promoting democratic governance, and its effective protection of human rights. In addition, the Board considered the opportunity to reduce poverty and promote economic growth and poverty reduction in a country, in light of the overall context of the information available, as well as the availability of appropriated funds.

Three countries were selected as eligible for the first time in FY09. Indonesia and Zambia, both low income candidates, were selected under section 606(a) of the Act (22 U.S.C. 7705(a)). Colombia, a lower middle income candidate, was selected under section 606(b) (22 U.S.C. 7705(b)) of the Act. All three of these countries: (1) Performed above the median in relation to their peers on at least half of the indicators in each of the three policy categories; (2) performed above the median on corruption; and (3) in cases where they performed substantially below the median on an indicator, demonstrated that actions to address the problem are being taken or had data that did not accurately reflect their policy performance.

Indonesia meets MCC's indicator criteria for the first time in FY09, after having made steady progress improving its Control of Corruption score over the past several years. The Government of Indonesia has demonstrated a strong commitment to fighting corruption: anti-corruption institutions have been strengthened and high-level anti-corruption investigations and prosecutions have become increasingly common. In addition to anti-corruption reforms, the Government has initiated a series of reforms to improve the investment climate. Indonesia is in its second year of a successful Threshold program that has focused on reducing corruption and improving immunization rates.

Zambia meets MCC's indicator criteria for the first time this year, performing above the median on 16 of 17 indicators. Anti-corruption efforts are a high priority for the Government of Zambia, and performance on the Control of Corruption indicator has improved in recent years. Zambia is also nearing the end of a successful anti-corruption Threshold Program. In recent years, Zambia has moved to a relatively open environment for investment and has demonstrated prudent macroeconomic management.

Colombia meets the indicator criteria for the second year in row. The Government of Colombia has pursued a significant reform agenda, including major tax, civil service, and justice sector reforms. Colombia has also been cited as a top reformer by the World Bank's *Doing Business* report for two years in a row. In addition, President Uribe's strategy to expand the professional armed forces and promote a strong state presence throughout the country has yielded significant results in terms of improving security. While the U.S. Government provides a substantial amount of assistance to Colombia through other accounts, the majority has gone toward counternarcotics aid.

Five countries selected as eligible for MCA assistance in FY09 were previously selected as eligible in at least one prior fiscal year; however, because they have not yet signed a compact agreement, they needed to be reselected as eligible for FY09 funds. Four of these countries were in the low income category: Malawi, Moldova, the Philippines, and Senegal. One country, Jordan, was in the lower middle income category.

The Board reselected these countries based on their continued performance since their prior selection. The Board determined that no material change has occurred in the performance of these countries on the indicator criteria since the FY08 selection that would justify not including them in the FY09 eligible country list. Only one of the countries—the Philippines—did not meet the indicator criteria, performing just below the median on the Control of Corruption indicator; however, MCC does not believe that the Philippines has demonstrated a pattern of action inconsistent with the selection criteria (i.e., a serious policy reversal) since it was last selected as eligible. The Board also stressed that the Philippines must meet the selection criteria, particularly the Control of Corruption indicator, before it would approve a compact.

Country partners which are implementing compacts must show a commitment to maintain and improve their policy performance. Once we sign a compact with these countries, they will not need to be reselected annually. MCC's Board closely evaluates a country's policy performance throughout the life of the compact. While MCC's indicators work well as a transparent way of identifying those countries that are most committed to sound development policies and for discerning trends over the medium-term, they are not as well-suited for tracking incremental progress from year-to-year. Countries may be *generally* maintaining performance but not meet the criteria in a given year due to factors such as:

- Graduation from the low income country category to the lower middle income country category,
- Data improvements and revisions,
- Last year's introduction of two new indicators and the requirement that countries pass three of the five indicators in the Investing in People category,
- Increases in peer-group medians,
- Slight declines in performance.

Once MCC has made a commitment to a country through a signed compact, MCC continues to work with that country—even if it doesn't meet the indicator criteria each year—as long as it has not demonstrated a pattern of actions inconsistent with the eligibility criteria. If it is determined that a country has demonstrated a significant policy reversal, the Board can hold it accountable by applying the Suspension and Termination Policy.

For those countries that have not demonstrated a significant policy reversal but do not meet the indicator criteria, MCC will invite these countries

to participate or continue their participation in MCC's policy improvement process. Countries participating in the policy improvement process are asked to develop and implement a forward-looking action plan that outlines the steps they plan to take to improve performance on certain policy criteria. They then periodically report on progress made on the plan.

Finally, a number of countries that performed well on the quantitative elements of the selection criteria (i.e., on the policy indicators) were not chosen as eligible countries for FY09. As discussed above, the Board considered a variety of factors in addition to the country's performance on the policy indicators in determining whether they were appropriate candidates for assistance (e.g., the country's commitment to fighting corruption and promoting democratic governance; the availability of appropriated funds; and the countries in which MCC would likely have the best opportunity to reduce poverty and generate economic growth).

Selection for Compact Negotiation

The Board also authorized MCC to invite Indonesia, Zambia, and Colombia to submit a proposal for a compact, as described in section 609 of the Act (22 U.S.C. 7708) (previously eligible countries that were reselected will not be asked to submit another proposal for FY09 assistance). MCC has posted guidance on the MCC Web site (*http://www.mcc.gov*) regarding the development and submission of MCA program proposals. Submission of a proposal is not a guarantee that MCC will finalize a compact with an eligible country. Any MCA assistance provided under section 605 of the Act will be contingent on the successful negotiation of a mutually agreeable compact between the eligible country and MCC, approval of the compact by the Board, and availability of funds.

Dated: December 22, 2008.

John C. Mantini,

Acting General Counsel, Millennium Challenge Corporation.

[FR Doc. E8–30965 Filed 12–31–08; 8:45 am]

BILLING CODE 9211–03–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–255]

Entergy Nuclear Operations, Inc.; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–20 issued to Entergy Nuclear Operations, Inc. (ENO, the licensee), for operation of the Palisades Nuclear Plant located in Covert, Michigan.

The proposed amendment would revise Appendix A, Technical Specifications (TS), as they apply to the spent fuel pool (SFP) storage requirements in TS section 3.7.16 and the criticality requirements for the Region I SFP and north tilt pit fuel storage racks, in TS section 4.3.1.1.

The proposed change, in accordance with Title 10 of *Code of Federal Regulations* (10 CFR) 50.68, Criticality accident requirements, would establish the effective neutron multiplication factor (Keff) limits for Region I storage racks based on analyses to maintain Keff less than 1.0 when flooded with unborated water, and less than, or equal to (≤) 0.95 when flooded with water having a minimum boron concentration of 850 parts per million (ppm) during normal operations. The proposed change was evaluated for both normal operation and accident conditions. This proposed change provides an analysis that does not credit boron in the Carborundum ® poison plates and incorporates a conservative swelling model of the plates in the Region I storage racks.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in Title 10 of the Code of Federal Regulations (10 CFR), Section 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

There is no significant increase in the probability of an accidental misloading of fuel assemblies into the spent fuel pool racks when considering the presence of soluble boron in the pool water for criticality control. Fuel assembly placement would continue to be controlled by approved fuel handling procedures and would be in accordance with the TS fuel storage rack configuration limitations.

There is no significant increase in the consequences of the accidental misloading of fuel assemblies into the spent fuel pool racks because the criticality analyses demonstrate that the pool would remain subcritical with margin following an accidental misloading if the pool contains an adequate boron concentration. The TS 3.7.15 limitation on minimum spent fuel pool boron concentration and plant procedures ensure that an adequate boron concentration will be maintained.

There is no significant increase in the probability of a fuel assembly drop accident in the spent fuel pool when considering the presence of soluble boron in the spent fuel pool water for criticality control. The handling of fuel assemblies in the spent fuel is performed in borated water. The criticality analysis has showed the reactivity increase with a fuel assembly drop accident in both a vertical and horizontal orientation is bounded by the misloading accident. Therefore, the consequences of a fuel assembly drop accident in the spent fuel pool would not increase significantly due to the proposed change.

The spent fuel pool TS boron concentration requirement in TS 3.7.15 requires a minimum of 1720 ppm which bounds the analysis. Soluble boron has been maintained in the spent fuel pool water as required by TS and controlled by procedures. The present criticality safety analyses for Region II of the spent fuel pool credits the same soluble boron concentration of 850 ppm to maintain a Keff ≤ 0.95 under normal conditions and 1350 ppm to maintain a Keff ≤ 0.95 under accident scenarios as do the analyses for the proposed change for Region I. Crediting soluble boron in the Region I spent fuel pool criticality analysis would have no effect on normal pool operation and maintenance. Thus, there is no change to the probability or the consequences of the boron dilution event in the spent fuel pool.

Since soluble boron is maintained in the spent fuel pool water, implementation of the proposed changes would have no effect on the normal pool operation and maintenance. Also, since soluble boron is present in the spent fuel pool a dilution event has always been a possibility. The loss of substantial amounts of soluble boron from the spent fuel