AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Federal Register

9–11–06 Monday
Vol. 71 No. 175 Sept. 11, 2006

Pages 53299–53542

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WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

Printed on recycled paper.

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Docket Number TM–04–01FR]

RIN 0581–AC35

National Organic Program (NOP); Amendments to the National List of Allowed and Prohibited Substances (Crops and Processing)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule would amend the U.S. Department of Agriculture's (USDA) National List of Allowed and Prohibited Substances (National List) regulations to reflect recommendations submitted to the Secretary of Agriculture (Secretary) by the National Organic Standards Board (NOSB) from November 15, 2000, through March 3, 2005. Consistent with the recommendations from the NOSB, this final rule adds thirteen substances, along with any restrictive annotations, to the National List. This final rule also amends the mailing address for where to file a Certification or Accreditation appeal.

EFFECTIVE DATE: This rule becomes effective September 12, 2006.

FOR FURTHER INFORMATION CONTACT: Bob Pooler, Agricultural Marketing Specialist, Telephone: (202) 720–3252; Fax: (202) 205–7808.

SUPPLEMENTARY INFORMATION:

I. Background

On December 21, 2000, the Secretary established, within the NOP [7 CFR part 205], the National List regulations (§§ 205.600 through 205.607). The National List identifies synthetic substances and ingredients that are allowed and nonsynthetic (natural) substances and ingredients that are prohibited for use in organic production and handling. Under the authority of the Organic Foods Production Act of 1990 (OFPA), as amended, (7 U.S.C. 6501 *et seq.*), the National List can be amended by the Secretary based on proposed amendments developed by the NOSB. Since established, the National List has been amended three times, October 31, 2003 (68 FR 61987), November 3, 2003 (68 FR 62215), and October 21, 2005 (70 FR 61217).

This final rule amends the National List to reflect recommendations submitted to the Secretary by the NOSB from November 15, 2000, through March 3, 2005. Between the specified time period, the NOSB has recommended that the Secretary add four substances to § 205.601 and eleven substances to § 205.605 of the National List regulations. This final rule also amends the mailing address for where to file a Certification or Accreditation appeal pursuant to § 205.681(d).

II. Overview of Amendments

The following provides an overview of the amendments made to designated sections of the National List regulations:

Section 205.601 Synthetic Substances Allowed for Use in Organic Crop Production

This final rule amends the following inert ingredient to § 205.601 of the National List regulations:

Glycerine oleate (Glycerol monooleate) (CAS # 37220–82–9)—for use only until December 31, 2006.

This final rule amends the following seed preparation to § 205.601 of the National List regulations:

Hydrogen chloride (CAS # 7647–01–0)—for delinting cotton seed for planting.

This final rule amends the following slug and snail bait to § 205.601 of the National List regulations:

Ferric phosphate (CAS # 10045–86–0).

Section 205.605 Nonagricultural (Nonorganic) Substances Allowed as Ingredients in or on Processed Products Labeled as ''Organic'' or ''Made With Organic (Specified Ingredients or Food Group(s))''

This final rule amends § 205.605(a) of the regulations by adding the following substances:

Egg white lysozyme (CAS # 9001–63–2).

L-Malic acid (CAS # 97–67–6).

Microorganisms—any food grade bacteria, fungi, and other microorganisms.

This final rule also amends § 205.605(b) of the regulations by adding the following substances:

Activated charcoal (CAS #s 7440–44–0; 64365–11–3)—only from vegetative sources; for use only as a filtering aid.

Cyclohexylamine (CAS # 108–91–8)—for use only as a boiler water additive for packaging sterilization.

Diethylaminoethanol (CAS # 100–37–8)—for use only as a boiler water additive for packaging sterilization.

Octadecylamine (CAS # 124–30–1)—for use only as a boiler water additive for packaging sterilization.

Peracetic acid/Peroxyacetic acid (CAS # 79–21–0)—for use in wash and/or rinse water according to FDA limitations. For use as a sanitizer on food contact surfaces.

Sodium acid pyrophosphate (CAS # 7758–16–9)—for use only as a leavening agent.

Tetrasodium pyrophosphate (CAS # 7722–88–5)—for use only in meat analog products.

Section 205.681 Appeals

This final rule amends § 205.681(d)(1) of the regulations by updating the mailing address for where to file a Certification or Accreditation appeal as follows: Administrator, USDA, AMS, c/o NOP Appeals Staff, Stop 0203, Room 302-Annex, 1400 Independence Avenue, SW., Washington, DC 20250–0203.

III. Related documents

Seven notices and one proposed rule (70 FR 54660, September 16, 2005) were published regarding the meetings of the NOSB and its deliberations on recommendations and substances petitioned for amending the National List. Substances and recommendations included in this final rule were announced for NOSB deliberation in the following **Federal Register** Notices: (1) 65 FR 64657, October 30, 2000, (Peracetic acid); (2) 66 FR 48654, September 21, 2001, (Ammonium hydroxide, Cyclohexlamine, and Octadecylamine); (3) 67 FR 19375, April 19, 2002, (Diethylaminoethanol); (4) 67 FR 54784, August 26, 2002, (Activated charcoal); (5) 68 FR 23277, May 1, 2003,

(Egg white lysozyme, Glycerine oleate, L-Malic acid, Microorganisms, Sodium acid pyrophosphate and Tetrahydrofurfuryl alcohol); (6) 69 FR 18036, April 6, 2004, (Hydrogen Chloride, and Tetrasodium pyrophosphate); and (7) 70 FR 7224, February 11, 2005, (Ferric phosphate).

IV. Statutory and Regulatory Authority

The OFPA, as amended (7 U.S.C. 6501 *et seq.*), authorizes the Secretary to make amendments to the National List based on proposed amendments developed by the NOSB. Sections 6518(k)(2) and 6518(n) of OFPA authorizes the NOSB to develop proposed amendments to the National List for submission to the Secretary and establishes a petition process by which persons may petition the NOSB for the purpose of having substances evaluated for inclusion on or deletion from the National List, respectively. The National List petition process is implemented under § 205.607 of the NOP regulations. The current petition process (65 FR 43259) can be accessed through the NOP Web site at *http://www.ams.usda.gov/nop.*

A. Executive Order 12866

This action has been determined to be not significant for purposes of Executive Order 12866, and therefore, has not been reviewed by the Office of Management and Budget.

B. Executive Order 12988

Executive Order 12988 instructs each executive agency to adhere to certain requirements in the development of new and revised regulations in order to avoid unduly burdening the court system. This final rule is not intended to have a retroactive effect.

States and local jurisdictions are preempted under § 2115 of the OFPA (7 U.S.C. 6514) from creating programs of accreditation for private persons or State officials who want to become certifying agents of organic farms or handling operations. A governing State official would have to apply to USDA to be accredited as a certifying agent, as described in § 2115(b) of the OFPA (7 U.S.C. 6514(b)). States are also preempted under §§ 2104 through 2108 of the OFPA (7 U.S.C. 6503 through 6507) from creating certification programs to certify organic farms or handling operations unless the State programs have been submitted to, and approved by, the Secretary as meeting the requirements of the OFPA.

Pursuant to § 2108(b)(2) of the OFPA (7 U.S.C. 6507(b)(2)), a State organic certification program may contain additional requirements for the production and handling of organically produced agricultural products that are produced in the State and for the certification of organic farm and handling operations located within the State under certain circumstances. Such additional requirements must: (a) Further the purposes of the OFPA, (b) not be inconsistent with the OFPA, (c) not be discriminatory toward agricultural commodities organically produced in other States, and (d) not be effective until approved by the Secretary.

Pursuant to § 2120(f) of the OFPA (7 U.S.C. 6519(f)), this final rule would not alter the authority of the Secretary under the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*), the Poultry Products Inspections Act (21 U.S.C. 451 *et seq.*), or the Egg Products Inspection Act (21 U.S.C. 1031 *et seq.*), concerning meat, poultry, and egg products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 *et seq.*), nor the authority of the Administrator of the Environmental Protection Agency (EPA) under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 *et seq.*).

Section 2121 of the OFPA (7 U.S.C. 6520) provides for the Secretary to establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, or a certifying agent under this title that adversely affects such person or is inconsistent with the organic certification program established under this title. The OFPA also provides that the U.S. District Court for the district in which a person is located has jurisdiction to review the Secretary's decision.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) requires agencies to consider the economic impact of each rule on small entities and evaluate alternatives that would accomplish the objectives of the rule without unduly burdening small entities or erecting barriers that would restrict their ability to compete in the market. The purpose is to fit regulatory actions to the scale of businesses subject to the action. Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the requirements set forth in the RFA, the Agricultural Marketing Service (AMS) performed an economic impact analysis on small entities in the final rule published in the **Federal Register** on December 21, 2000 (65 FR 80548). The AMS has also considered the economic impact of this action on small entities. The impact on entities affected by this final rule would not be significant. The effect of this final rule would be to allow the use of additional substances in agricultural production and handling. This action would relax the regulations published in 7 CFR part 205 and would provide small entities with more tools to use in day-to-day operations. The AMS concludes that the economic impact of this addition of allowed substances, if any, would be minimal and entirely beneficial to small agricultural service firms. Accordingly, USDA certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Small agricultural service firms, which include producers, handlers, and accredited certifying agents, have been defined by the Small Business Administration (SBA) (13 CFR 121.201) as those having annual receipts of less than $6,500,000 and small agricultural producers are defined as those having annual receipts of less than $750,000. This final rule would have an impact on a substantial number of small entities.

The U.S. organic industry at the end of 2001 included nearly 6,949 certified organic crop and livestock operations. These operations reported certified acreage totaling more than 2.09 million acres of organic farm production. Data on the numbers of certified organic handling operations (any operation that transforms raw product into processed products using organic ingredients) were not available at the time of survey in 2001; but they were estimated to be in the thousands. By the end of 2004, the number of certified organic crop, livestock, and handling operations totaled nearly 11,400 operations. Based on 2003 data, certified organic acreage increased to 2.2 million acres.

U.S. sales of organic food and beverages have grown from $1 billion in 1990 to an estimated $12.2 billion in 2004. Organic food sales are projected to reach $14.5 billion for 2005; total U.S. organic sales, including nonfood uses, are expected to reach $15 billion in 2005. The organic industry is viewed as the fastest growing sector of agriculture, representing 2 percent of overall food and beverage sales. Since 1990, organic retail sales have historically demonstrated a growth rate between 20 to 24 percent each year. This growth rate is projected to decline and fall to a rate of 5 to 10 percent in the future.

In addition, USDA has accredited 96 certifying agents who have applied to

USDA to be accredited in order to provide certification services to producers and handlers. A complete list of names and addresses of accredited certifying agents may be found on the AMS NOP Web site, at *http://www.ams.usda.gov/nop.* AMS believes that most of these entities would be considered small entities under the criteria established by the SBA.

D. Paperwork Reduction Act

No additional collection or recordkeeping requirements are imposed on the public by this final rule. Accordingly, OMB clearance is not required by section 350(h) of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.,* or OMB's implementing regulation at 5 CFR part 1320. AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the option of submitting information of transaction business electronically to the maximum extent possible.

E. Discussion of Comments Received

Twenty-nine (29) comments were received on proposed rule TM–04–01. In general, comments favored amending the National List with the proposed substances identified in the proposed rule. However, there were some commenters that raised concerns with proposed restrictions to the use of substances being added to § 205.605(b) and the expiration date attached to the use of ammonium hydroxide. A few commenters, suggested technical changes to the CAS numbers for glycerine oleate. These same commenters asserted that tetrasodium pyrophosphate and sodium acid pyrophosphate should not be added to the National List. We also received a comment asking the USDA to ''clarify that the category of 'microorganisms'' also includes food grade by-products derived from microorganisms that exhibit similar characteristics or functions as the microorganism.''

Changes Made Based on Comments

The following changes are made based on comments received.

First, Restriction to Use of Substances on § 205.605(b). The proposed rule restricted the use of synthetic substances being added to § 205.605(b). It restricted the synthetic substances to the handling of agricultural products labeled ''made with organic (specified ingredients or food group(s)) and prohibited the use of the proposed synthetic substances in handling agricultural products labeled as ''organic.'' Commenters, however, were largely opposed to restricting the use of the proposed synthetic substances to products labeled as ''made with organic (specified ingredients or food group(s)).

The proposed rule restricted the use of these substances because of the final judgment and order in the case of *Harvey* v. *Johanns,* issued on June 9, 2005, by the United States District Court, District of Maine. The district court ruled that 7 CFR 205.600(b) and 205.605(b) of the National List regulations are contrary to the OFPA and exceed the Secretary's rulemaking authority to the extent that they permit the addition of synthetic ingredients and processing aids in handling and processing of agricultural products which contain a minimum of 95 percent organic content and which are eligible to bear the USDA seal. Due to this ruling by the district court, the USDA determined that any new additions to the National List would have to comply with the court's order.

However, in October 2005, Congress voted to amend § 6517 of the OFPA to permit the use of certain synthetic substances in organic handling. Therefore, we agree with the commenters and have removed the restrictive language from substances being added to § 205.605(b) of the National List.

Second, Glycerine Oleate CAS #. In proposing glycerine oleate for addition to the National List, the proposed rule identified the substance with the following CAS #s: 111–03–5, 25496–72–4, and 37220–82–9. Commenters stated that the listing of CAS #s 111–03–5 and 25496–72–4 are incorrect and not necessary because they now appear on the EPA's List 4A. Inert substances that appear on the EPA's List 4a are already permitted for use in organic crop production under the National List regulations.

We agree with the commenters and have removed the CAS #s 111–03–5 and 25496–72–4 from the listing of glycerine oleate.

Third, Ammonium Hydroxide Expiration Date. Based on the recommendation from the NOSB in October 2001, ammonium hydroxide was proposed for inclusion on the National List with an expiration date of October 21, 2005. Most commenters supported the inclusion of ammonium hydroxide on the National List and requested that the expiration date be amended to acknowledge the three years that the NOSB had intended to allow the use of the substance. Some commenters expressed the view that ammonium hydroxide should not be added to the National List. They asserted that processors have managed without use of the substance in the last four years and suggest that there are a number of alternatives to ammonium hydroxide for boiler maintenance.

We have taken into account the concerns of the commenters. However, the expiration date recommended by the NOSB for the use of ammonium hydroxide has lapsed. As a result, ammonium hydroxide is not being added to the National List at this time. To be reconsidered for inclusion on the National List, the NOSB will have to submit a new recommendation to the Secretary to amend the National List to permit the use of ammonium hydroxide.

Fourth, Non-Inclusion of Tetrahydrofurfyl Alcohol (THFA). The NOSB recommended the inclusion of THFA to the National List, with the restriction that it could only be used until December 21, 2006. THFA was petitioned for use in organic crop production as an inert pesticidal ingredient. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the EPA had registered THFA as a List 3 inert (Inerts of Unknown Toxicity). However, the EPA is currently evaluating THFA for reassessment under the Food Quality Protection Act (FQPA) and has identified risks of concern that require the use of THFA as an inert ingredient in pesticide products to be significantly limited. Based on consultations with the EPA concerning the future use of THFA, the Secretary has been advised to withhold listing THFA as an allowed substance on the National List. Due to potential risk issues associated with THFA's use in crop production, the Secretary will wait until the EPA has concluded its reassessment of the substance before reconsidering its inclusion to the National List. The EPA's proposed rulemaking for proposed action on THFA can be found in the **Federal Register,** 71 FR 18689 (April 12, 2006).

Changes Requested But Not Made

First, Sodium Acid Pyrophosphate. The NOSB recommended the use of sodium acid pyrophosphate at its May 2003, meeting in Austin, TX. After the May meeting, the NOP requested that the NOSB submit documentation that would reflect how the recommended substance met the evaluation criteria specified in §§ 6517 and 6518 of the OFPA, before the recommended substance would be considered by the Secretary for proposed rulemaking. The NOSB submitted the documentation as requested by the NOP. The NOP, in turn, reviewed and used the documentation to draft a proposed rule

for adding sodium acid pyrophosphate to the National List.

In response to the proposed rule, a few commenters stated that the NOP did not make all supporting documentation (the NOSB decision sheet checklist and a supplemental technical review used by the NOSB to evaluate sodium acid pyrophosphate) available to the public for consideration in developing comments regarding the addition of sodium acid pyrophosphate to the National List. They asserted that sodium acid pyrophosphate should be tabled until all supporting information for sodium acid pyrophosphate is made available to the public.

The NOSB decision sheet checklist and supplemental technical review for sodium acid pyrophosphate were not posted on the NOP Web site during the public comment period for the proposed rule TM–04–01. However, all documents related to the review of substances for inclusion on the National List are always available to the public through the NOP office. If the public is aware that such a document is not available on the NOP Web site, a request may always be submitted to the NOP to receive the related documents. Taking into account the commenters' position regarding easy accessibility to materials review documents, we do not believe their position warrants the NOP deferring final action on the substance. Evidence has not been submitted that would suggest sodium acid pyrophosphate violates the evaluation criteria specified in the OFPA.

Second, Tetrasodium Pyrophosphate. A few commenters opposed the addition of tetrasodium pyrophosphate on the National List because of reasons that were expressed in an earlier proposed rule (68 FR 27941, May 22, 2003). Commenters had stated that the use of tetrasodium pyrophosphate conflicts with § 205.600(b)(4) of the NOP regulations. They also stated that the annotation associated with tetrasodium pyrophosphate is too vague.

The NOP disagrees with the commenters. The NOP specifically referred tetrasodium pyrophosphate back to the NOSB, as a result of receiving such comments in response to the May 2003, proposed rule. The NOP charged the NOSB with determining whether the proposed use of tetrasodium pyrophosphate conflicts with § 205.600(b)(4) of the NOP regulations. Through further review and deliberation at their April 2004, meeting in Chicago, IL, the NOSB determined that the proposed use of tetrasodium pyrophosphate did not conflict with § 205.600(b)(4) of the NOP regulations. In response to the concerns of the commenters, the NOSB provided that the primary use of tetrasodium pyrophosphate, as petitioned, is not to serve as a preservative, or to ''recreate'' flavor, color or texture. They acknowledged that the substance may be used to create texture; however, it is not being used to ''recreate'' texture, as is referenced in § 205.600(b)(4) of the regulations.

Third, Microorganisms. A commenter requested the NOP to ''clarify that the category of 'microorganisms' also includes food grade by-products derived from microorganisms that exhibit similar characteristics or functions as the microorganism.'' The NOP does not have enough information to address this commenter's concern. His request must be evaluated by the NOSB. As a result, the NOP instructs the commenter to submit a petition to the NOSB that would request evaluation of the types of substances for which he seeks clarification.

F. Effective Date

This final rule reflects recommendations submitted to the Secretary by the NOSB. The thirteen substances being added to the National List were based on petitions from the industry and evaluated by the NOSB using criteria in the Act and the regulations. Because these substances are critical to organic production and handling operations, producers and handlers should be able to use them in their operations as soon as possible. Accordingly, AMS finds that good cause exists under 5 U.S.C. 553(d)(3) for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**.

List of Subjects in 7 CFR Part 205

Administrative practice and procedure, Agriculture, Animals, Archives and records, Imports, Labeling, Organically produced products, Plants, Reporting and recordkeeping requirements, Seals and insignia, Soil conservation.

■ For the reasons set forth in the preamble, 7 CFR part 205, Subpart G is amended as follows:

PART 205—NATIONAL ORGANIC PROGRAM

■ 1. The authority citation for 7 CFR part 205 continues to read as follows:

Authority: 7 U.S.C. 6501–6522.

■ 2. Section 205.601 is amended by:
■ a. Revising paragraph (h).
■ b. Revising paragraph (m)(2).
■ c. Adding a new paragraph (n).
■ d. Reserving paragraphs (o)–(z).

The revisions and additions read as follows:

§ 205.601 Synthetic substance allowed for use in organic crop production.

* * * * *

(h) As slug or snail bait. Ferric phosphate (CAS # 10045–86–0).

* * * * *

(m) * * *

(2) EPA List 3—Inerts of Unknown Toxicity allowed:

(i) Glycerine Oleate (Glycerol monooleate) (CAS #s 37220–82–9)—for use only until December 31, 2006.

(ii) Inerts used in passive pheromone dispensers.

(n) Seed preparations. Hydrogen chloride (CAS # 7647–01–0)—for delinting cotton seed for planting.

* * * * *

■ 3. Section 205.605 is amended by:
■ a. Adding three materials to paragraph (a).
■ b. Adding seven new substances to paragraph (b).

The additions read as follows:

§ 205.605 Nonagricultural (nonorganic) substances allowed as ingredients in or on processed products labeled as ''organic'' or ''made with organic (specified ingredients or food group(s)).''

* * * * *

(a) * * *

* * * * *

Egg white lysozyme (CAS # 9001–63–2)

* * * * *

L-Malic acid (CAS # 97–67–6).

* * * * *

Microorganisms—any food grade bacteria, fungi, and other microorganism.

* * * * *

(b) * * *

Activated charcoal (CAS #s 7440–44–0; 64365–11–3)—only from vegetative sources; for use only as a filtering aid.

* * * * *

Cyclohexylamine (CAS # 108–91–8)—for use only as a boiler water additive for packaging sterilization.

Diethylaminoethanol (CAS # 100–37–8)—for use only as a boiler water additive for packaging sterilization.

* * * * *

Octadecylamine (CAS # 124–30–1)—for use only as a boiler water additive for packaging sterilization.

* * * * *

Peracetic acid/Peroxyacetic acid (CAS # 79–21–0)—for use in wash and/or rinse water according to FDA limitations. For use as a sanitizer on food contact surfaces.

* * * * *

Sodium acid pyrophosphate (CAS # 7758–16–9)—for use only as a leavening agent.

* * * * *

Tetrasodium pyrophosphate (CAS # 7722–88–5)—for use only in meat analog products.

* * * * *

■ 4. In § 205.681, paragraph (d)(1) is revised to read as follows:

§ 205.681 Appeals.

* * * * *

(d) * * * (1) Appeals to the Administrator must be filed in writing and addressed to: Administrator, USDA, AMS, c/o NOP Appeals Staff, Stop 0203, Room 302-Annex, 1400 Independence Avenue, SW., Washington, DC 20250–0203.

* * * * *

Dated: September 5, 2006.

Lloyd C. Day, Administrator,

Agricultural Marketing Service.

[FR Doc. E6–14923 Filed 9–8–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1290

[Docket No. FV06–1290–1 FR]

RIN 0581–AC59

Specialty Crop Block Grant Program

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule provides regulations to implement the Specialty Crop Block Grant Program (SCBGP) to enhance the competitiveness of specialty crops. This action establishes the eligibility and application requirements, the review and approval process, and grant administration procedures for the SCBGP.

The SCBGP is authorized under Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note).

EFFECTIVE DATE: October 11, 2006.

FOR FURTHER INFORMATION CONTACT: Trista Etzig, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue, SW., Stop 0243, Washington, DC 20250–0243; Telephone: (202) 690–4942; Fax: (202) 690–0102; or e-mail: *trista.etzig@usda.gov*.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 by the Office of Management and Budget (OMB).

Public Law 104–4

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State and local governments and the private sector. Under section 202 of the UMRA, the Agricultural Marketing Service (AMS) generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State and local governments, in the aggregate, or by the private sector, of $100 million or more in any one year (2 U.S.C. 1532). When such a statement is needed for a rule, section 205 of the UMRA generally requires federal agencies to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule (2 U.S.C. 1535).

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State and local governments or the private sector of $100 million or more in any one year. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

Catalog of Federal Domestic Assistance

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.169, Specialty Crop Block Grant Program.

Executive Order 12372

This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR part 3015, subpart V published at 48 FR 29115 (June 24, 1983).

Executive Order 13132

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule would not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of government.

Regulatory Flexibility Act

The AMS certifies that this rule will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Pub. L. 96–534, as amended (5 U.S.C. 601 *et seq.*). This rule only will impact State departments of agriculture that apply for grant funds. States include the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico. The States are not small entities under the Act.

Authority for a Specialty Crop Block Grant Program

This program is intended to accomplish the goals of increasing fruit, vegetable, and nut consumption and improving the competitiveness of United States specialty crop producers. The SCBGP is authorized under section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note). Section 101 directs the Secretary of Agriculture to make grants to States for each of the fiscal years 2005 through 2009 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops.

Background

The Fruit and Vegetable Program will periodically announce that applications may be submitted for participation in a ''Specialty Crop Block Grant Program'' (SCBGP), which will be administered by personnel of the Agricultural Marketing Service (AMS).

Periodically, funding may be appropriated to the Secretary of Agriculture to provide specialty crop block grants. To the extent that funds are available, each year the AMS will publish a **Federal Register** notice announcing the program and soliciting grant applications.

Subject to the appropriation of funds, each State that submits an application that is reviewed and approved by AMS is to receive at least $100,000 to enhance the competitiveness of specialty crops. In addition, each State will receive an amount that represents the proportion of the value of specialty crop production in the state in relation

to the national value of specialty crop production using the latest available complete specialty crop production data set in all states whose applications are accepted. All 50 States, the District of Columbia, and the Commonwealth of Puerto Rico are eligible to participate.

''Specialty crops'' for the purpose of this rule, means fruits and vegetables, tree nuts, dried fruits, and nursery crops (including floriculture).

SCBGP applications will be accepted from any State department of agriculture, including the agency, commission, or department of a State government responsible for agriculture within the State.

Section 1290.6 prescribes the application procedure that includes a State plan to indicate how grant funds will be utilized to enhance the competitiveness of specialty crops using measurable expected outcomes. Applications can be submitted for projects up to 3 calendar years in length. Applicants wishing to serve multi-state projects must submit the project in their State plan indicating which State is taking the coordinating role and the percent of the budget covered by each State.

Section 1290.8 prescribes that under the SCBGP program, the AMS will enter into agreements with those State departments of agriculture or other entities that are responsible for agriculture within a State whose applications have been approved. The State department of agriculture will assure that the State will comply with the requirements of the State plan. The State department of agriculture will also assure that funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.

The AMS will provide the entire funding to the approved applicants by a one-time combined electronic transfer. SCBGP participants must deposit funds in federally insured, interest-bearing accounts and remit to AMS interest earned in accordance with 7 CFR 3015 and 3016.

Section 1290.9 prescribes the reporting and oversight requirements. If the grant period is more than one year, State departments of agriculture are required to submit an annual performance report(s) and a final performance report evaluating their project(s)using the measurable outcomes presented in the State plan, as well as a final financial report. If the grant period is less than a year, State departments of agriculture are required to submit a final performance report and a final financial report.

Section 1290.10 prescribes the audit requirements of the State. The State is accountable for conducting annual financial audits of the expenditures of all SCBGP funds. Not later than 30 days after completion of the audit, the State shall submit a copy of the audit results with an executive summary to AMS.

Notice of this action was published in the **Federal Register** on April 20, 2006. Interested persons were invited to submit written comments until May 22, 2006. During the comment period, eighty-two comments were received from members of Congress, producers of specialty crops, marketers of specialty crops, trade organizations, and interested consumers. Three comments were received after the comment period, but they did not introduce any new issues AMS has considered each comment timely submitted, and they are discussed below.

Summary of Comments Received

Purpose and Scope

Two commenters stated that the rule is not consistent in defining the program's purpose to ''enhance the competitiveness of specialty crops.'' The commenters went on to say that the rule also states the program's purpose as ''increasing fruit, vegetable and nut consumption and improving the competitiveness of specialty crops.'' The Act includes a provision on Findings and Purpose (Sec. 2) and a provision concerning the Availability and Purpose of Grants (Sec. 101(a)). The statements appeared in the supplementary information and Paperwork Reduction Act sections of the proposed rule and are within the meaning of these sections of the Act. Accordingly, no changes have been made as a result of these comments.

One commenter wanted clarification that funding is only to support specialty crops grown in the U.S. Another commenter asked if funds could be spent on projects in foreign markets to enhance the competitiveness of U.S. specialty crops. A purpose of the Act is to improve the competitiveness of United States specialty crop producers. Accordingly, this program only supports specialty crops grown in the United States. Furthermore, the Specialty Crop Block Grant Program funding may support U.S. grown specialty crops in both domestic and foreign markets.

Eight commenters requested reference to 7 CFR Part 3016 in Section 1290.1 be removed because it restricts grant funds from being used for advertising, public relations, selling, and marketing. Part 3016 refers to OMB Circular A–87 which provides that advertising and public relations costs are allowable when they are undertaken for ''purposes necessary to meet the requirements of the Federal award'' (*i.e.* if the purpose of the grant is to promote a specialty crop, then it is allowable to use grant funds for advertising the specialty crop). Accordingly, no change is made as a result of these comments.

Definitions

USDA received 10 comments on the definition of ''specialty crops''. The commenters recommended the following be included in the specialty crop definition: Low growing dense perennial turfgrass sod, processed fruit and vegetable products, Christmas trees, potatoes, dry beans, sugar beets, grapes for wine, vegetable seeds, maple syrup, apple cider, certified organic crops, flax, dry peas, exotic fruits and vegetables grown in Hawaii such as coffee, cacoa, seed crops, algae and seaweed, kava, ginger root, vanilla, lavender, honey, and sugar cane. While in some instances including examples in a definition may improve clarity, we believe that additions beyond the language reflected in the Act would be counter productive given the numerous commodities that come within the definition of specialty crops. USDA will work with State departments of agriculture in providing further assistance with this definition.

Fourteen comments were received requesting that a definition for ''enhancing the competitiveness'' of specialty crops be included in the regulations. AMS believes that these comments have merit and a definition has been included in the regulations for clarity at § 1290.2(c). Examples of enhancing the competitiveness of specialty crops include, but are not limited to: Research, promotion, marketing, nutrition, trade enhancement, food safety, food security, plant health programs, education, ''buy local'' programs, increased consumption, increased innovation, improved efficiency and reduced costs of distribution systems, environmental concerns and conservation, product development, and developing cooperatives.

Nine comments were received concerning how to incorporate outcome measures in a State plan. In order to provide additional clarity concerning this matter, examples of outcome measures may include per capita consumption, consumer awareness as a percent of target market reached, market penetration based on sales by geographic region, dollar value of exports, or Web site hits. Furthermore, for clarity, the final rule at § 1290.6(b)(7) has been modified to state that expected

measurable outcomes may be long term that exceed the grant period and that timeframes should be included in the State plan when long term outcome measures will be achieved.

Eligible Grant Projects

Seventy-one comments were received from processors and wineries to remove the last sentence of § 1290.4(b) which provides that ''priority will be given to fresh specialty crop projects.'' These comments have merit. The Act does not restrict the term specialty crops to only fresh commodities and, as such, both fresh and processed specialty crop producers would benefit from the block grants provided for in this program. Accordingly, this sentence has been removed from § 1290.4(b) in the final rule.

USDA received four comments on the timeframe of eligible grant projects. One commenter requested projects longer than three years should be allowed without the requirement to obtain approval from USDA. Two commenters recommended project deadlines be set by the State. One commenter pointed out that the authorizing statute does not specify a time constraint of three years. Based upon experience with other grant programs, we consider three years as appropriate and reasonable. Furthermore, USDA intends to track projects through performance reports during the grant period. The grant period is established by the longest approved project in the State plan, so if a project goes beyond the grant period, AMS must be notified. Secondly, the final rule in § 1290.4(b) has been clarified to state, for cause, an extension of the grant period not to exceed three years may be granted by AMS on a case by case basis with a written request from the State.

Another commenter recommended USDA give extra time for evaluation of projects in addition to three years. State departments of agriculture have appropriate time for project evaluation. Reporting requirements are based on the grant period established by the longest project submitted and approved in the State plan which can not exceed three years. Some projects may be completed prior to the annual or final reporting period. Therefore, State departments of agriculture will have at least 90 days, if not more, to evaluate their projects and submit performance reports to USDA. This commenter also requested that a definition for project activities should be added to the regulations. We disagree. Each State department of agriculture has discretion to select projects to include in their State plan and, as such, providing examples of project activities in the regulations could suggest limitation and a narrowing of the range of project activities.

Restrictions and Limitations on Grant Funds

Two comments were received concerning the language in § 1290.5(c) ''grant funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.'' One commenter stated ''it is unrealistic for programs not to cross between state funding and federal funding.'' Another commenter wanted clarification if the language prevents a State from creating a new state program that would support specialty crops. This language in § 1290.5(c) of the rule reflects the statutory language that appears in Sec. 101(d)(3) of the Act which provides that a grant application should contain an assurance that grant funds received under this section shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds. Under section § 1290.5(c) of the rule, grant funds can supplement existing programs or create new programs, but not replace state funds. Accordingly, no changes are made as a result of these comments.

Electronic Transfer of Funds

Three comments were received on the electronic transfer of funds. One commenter recommended direct payments be made to a third party. Another commenter recommended USDA award funding on a fixed-based or deliverable-based basis and another commenter explained one State has a policy that state funds are spent on projects and then the State seeks a one time reimbursement of federal dollars at the end of the projects. Since the grant agreements are made with the State department of agriculture, it is appropriate that the funds will be transferred to the State department of agriculture after the grant agreement is signed. The State department of agriculture can then disperse the funds based upon their approved State plans.

Completed Application

Comments from seventeen organizations were received on the application process. Seven commenters recommended USDA notify the State departments of agriculture on the exact amount of funds they are to receive prior to submitting State plans. USDA intends to notify the State departments of agriculture of the exact amount of grant funds they may receive in the Notice for Applications, which will be published in the **Federal Register** soon after publication of this final rule.

In addition, three comments were received recommending USDA explain how funds will be distributed if one or more States do not file an application or if an application is denied. One commenter recommended funds not distributed be rolled over and made available the following fiscal year to that respective State who did not apply the previous year and another commenter recommended that funds not distributed be allocated pro rata to all other States. The commenter went on further to request that USDA provide for an appeal process by a State department of agriculture should USDA deny a State plan. With regard to rolling over funds to the following fiscal year, States who do not apply for or do not request all available funding during the specified grant application period will forfeit all or that portion of available funding not requested for that application year. Finally, Sec. 101(f) of the Act provides that the Secretary of Agriculture may accept or reject applications for a grant. Accordingly, no change is made in the regulations concerning additional processes. However, we are clarifying § 1290.7 concerning review of applications to include language concerning not only accepting applications, but also rejecting them as well. Nonetheless, USDA will work closely with State departments of agriculture to assist applicants in meeting deadlines.

Ten commenters recommended that the application process be adjusted because State departments of agriculture need time to work with grant partners and decide on projects. In addition, 10 comments were received recommending USDA allow State departments of agriculture flexibility to establish granting processes, collaborate with subgrantees, and select projects based on the unique needs and priorities of that State. Under the Specialty Crop Block Grant Program, State departments of agriculture must submit their State plans within one year after the publication of the Notice for Applications. This one year period is reasonable and provides State departments of agriculture a sufficient amount of time to establish granting processes, collaborate with subgrantees, decide on projects, and develop and submit their State plan to USDA. Accordingly, no changes to the regulations are made as a result of these comments.

Another commenter recommended post-approval adjustments to allow States to participate in multi-state projects. State departments of

agriculture will have one year to work with other State departments of agriculture to coordinate multi-state projects prior to submitting State plans. Again, a one year period is appropriate and will provide a reasonable amount of time for participation in multi-state projects. Therefore, no change to the regulations is made as a result of this comment.

Another commenter requested clarification on the number of State plans that need to be submitted to USDA. A State department of agriculture must submit one plan to USDA that includes all projects and submit annual performance reports and a final report that summarizes progress on all projects in the State plan. This comment has merit and has been clarified in the final rule in § 1290.6(b) and § 1290.9.

One commenter asked for guidance on what is an acceptable percentage for project administrative costs. Based upon experience with other grant programs, we consider administrative costs not exceeding 10 percent of any proposed budget as appropriate and reasonable. If administrative costs exceed 10 percent, a State department of agriculture should include a justification in their State plan. This comment has merit and § 1290.6(b)(4) has been clarified accordingly. One commenter asked if a State department of agriculture may charge the paperwork burden costs and audit costs to administrative expenses. These are acceptable administrative expenses. While these costs may be considered acceptable, USDA will work with States concerning acceptable costs on a case-by-case basis.

Five commenters wanted clarification that an application would be reviewed and approved by USDA before the grant funds are dispersed. These comments have merit and this has been clarified at § 1290.8 in the final rule.

Review of Grant Applications

Eight comments were received on the grant application review process stating USDA should not need to approve each project and the State department of agriculture should have flexibility in selecting projects. Each State department of agriculture has discretion to select projects to include in their State plan, while final review and approval of the State plan resides with USDA.

Grant Agreements

One commenter suggested language be added to the rule to indicate ''it shall be allowable to include fee-based or deliverable-based projects as part of an approvable grant agreement with the State department of agriculture.'' A State department of agriculture is responsible for selecting the type of projects that enhance the competitiveness of specialty crops to include in their State plan subject to USDA review and approval. We believe that it is preferable to retain a measure of flexibility in the regulations. Including such language in the regulations is not necessary. Accordingly, no change to the regulations is made as a result of this comment.

Reporting and Oversight Requirements

One commenter wanted language added to the rule to indicate the allowance for subgrantees, and whether subgrantees would be subject to the same reporting requirements and financial audit requirements of the applicant as stated previously. The State department of agriculture is responsible for selecting the type of projects that enhance the competitiveness of specialty crops and whether to include subgrantees or not. Retaining a measure of flexibility in the regulations is preferable. As such, the recommended language is not necessary in the regulations. Whether subgrantees are included or not in a project is a matter for a State department of agriculture to decide. The State department of agriculture remains accountable for the project reporting.

Audit Requirements

Four comments were received regarding the requirement to follow Government Auditing Standards as being costly. Two commenters recommended the Single Audit Act should oversee the audit requirement. Two commenters asked for clarification on who would perform the audit, how the audit requirement affected subgrantees, and if the audit was fiscal or performance based. Section 101 (h) of the Specialty Crops Competitiveness Act provides that the State shall conduct an audit of the expenditures of grant funds by the State. The Act further provides that not later than 30 days after the completion of the audit, the State shall submit a copy of the audit to the USDA. Accordingly, the State and not the subgrantee is accountable for audit requirements. Furthermore, under this program, an audit is required to be conducted. Whether the Single Audit Act applies or not to an eligible grantee, audit results must be provided to AMS for the SCBGP grant expenditures. Government Auditing Standards are applicable as provided for under the Act as well as revised OMB Circular A–133, ''Audits of States, Local Governments, and Non-Profit Organizations.''

General

One commenter asked for a cost benefit analysis on the SCBGP. The SCBGP is authorized by statute to enhance the competitiveness of specialty crops. We have conducted the required analyses for the rulemaking, which appear as part of this document. The commenter also recommended records be kept for seven years. We disagree. State departments of agriculture will be required to retain records pertaining to the SCBGP for 3 years after completion of the grant period or until final resolution of any audit findings or litigation claims relating to the SCBGP. This is a part of normal business practice and consistent with USDA regulations (7 CFR parts 3015 and 3016).

Finally, we have added for clarity a paragraph (f) to § 1290.9 concerning the three year record retention period.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the AMS had previously submitted this information collection to OMB and obtained approval of this information collection under OMB number 0581–0236.

The information collection requirements in this request are applied only to those State departments of agriculture who voluntarily participate in the SCBGP. The information collected is needed for the implementation of the SCBGP, to determine a State department of agriculture's eligibility in the program, and to certify that grant participants are complying with applicable program regulations. Data collected is the minimum information necessary to effectively carry out the requirements of the program, and to fulfill the intent of Section 101 of the Competitiveness Act of 2004.

State departments of agriculture who wish to participate in the SCBGP will have to submit standard form SF–424, ''Application for Federal Assistance'', approved under OMB#4040–0004. After receipt of the SF–424, the State department of agriculture will have to submit SF–424B, ''Assurances-Non-Construction Programs'', approved under OMB#0348–0040 as part of the grant agreement to the AMS. The State department of agriculture will then submit to the AMS 90 days after the expiration date of the grant period SF269 ''Financial Status Report (Long Form)'', if the project had program income, approved under OMB#0348–

0039, or SF269A ''Financial Status Report (Short Form)'', approved under OMB#0348–0038.

Completed applications must also include a State plan to show how grant funds will be utilized to enhance the competitiveness of specialty crops.

After approval of a grant application, State departments of agriculture will have to enter into a grant agreement with AMS by reading and signing the grant agreement.

The grant period is not to exceed three calendar years, therefore State departments of agriculture will have to submit to AMS annual performance reports within 90 days after the first year of the grant agreement and within 90 days after the second year of the grant agreement.

If a project goes beyond the grant period, not to exceed three years, a State department of agriculture will have to submit a letter to AMS requesting a grant period extension.

A State department of agriculture will have to submit a final performance report to AMS within 90 days following the expiration date of the grant period.

No later than 60 days after expiration of the grant period, a State will be required to conduct an audit of SCBGP grant funds. An audit report will be required to be submitted to AMS no later than 30 days after completion of the audit.

The SCBGP is expected to accomplish the goal of enhancing the competitiveness of specialty crops.

This program would not be maintained by any other agency, therefore, the requested information will not be available from any other existing records.

AMS is committed to compliance with the Government Paperwork Elimination Act (GPEA), which requires Government agencies in general to provide the public the option of submitting information or transacting business electronically to the maximum extent possible. The SF forms and State plan can be filled out electronically and printed out for submission or filled out electronically and submitted as an attachment through Grants.gov. The annual performance reports, final performance report, and the audit report/executive summary can be submitted electronically. The grant agreement requires an original signature and can be submitted by mail.

Finally, State departments of agriculture will be required to retain records pertaining to the SCBGP for 3 years after completion of the grant period or until final resolution of any audit findings or litigation claims relating to the SCBGP. This is a part of normal business practice and consistent with USDA regulations (7 CFR Parts 3015 and 3016).

The estimated one-time cost for all State departments of agriculture in completing the information collection is $9,980. This total cost was calculated by multiplying the estimated 499 total burden hours by $20 per hour (a sum deemed reasonable, shall the respondents be compensated for this time).

Comments were invited on the information collection in the April 20, 2006, notice of proposed rulemaking. The deadline for comments ended on June 19, 2006. Five comments were received stating the time estimated to prepare applications and reports is understated because many hours of planning would have to occur before a State department of agriculture could prepare an application that might include multiple projects and subgrantees. AMS recognized that there would be planning involved in the preparation of the information collection and included this time into the average burden hours per response. AMS believes that the burden hours stated in the rule are accurate because the burden hours are based on the average time it takes the 52 State departments of agriculture to complete the information collection requirements.

List of Subjects in 7 CFR Part 1290

Specialty crop block grants, Agriculture, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, Title 7, Chapter XI of the Code of Federal Regulations is amended as follows:

■ 1. A new part 1290 is added to read as follows:

PART 1290—SPECIALTY CROP BLOCK GRANT PROGRAM

Sec.

1290.1 Purpose and scope.
1290.2 Definitions.
1290.3 Eligible grant applicants.
1290.4 Eligible grant project.
1290.5 Restrictions and limitations on grant funds.
1290.6 Completed application.
1290.7 Review of grant applications.
1290.8 Grant agreements.
1290.9 Reporting and oversight requirements.
1290.10 Audit requirements.

Authority: 7 U.S.C. 1621 note.

§ 1290.1 Purpose and scope.

Pursuant to the authority conferred by Section 101 of the Specialty Crops Competitiveness Act of 2004 (7 U.S.C. 1621 note) AMS will make grants to States to enhance the competitiveness of specialty crops in accordance with the terms and conditions set forth herein and other applicable federal statutes and regulations including, but not limited to, 7 CFR Part 3016.

§ 1290.2 Definitions.

(a) *AMS* means the Agricultural Marketing Service of the U. S. Department of Agriculture.

(b) *Application* means application for Specialty Crop Block Grant Program.

(c) ''*Enhancing the competitiveness*'' of specialty crops includes, but is not limited to: Research, promotion, marketing, nutrition, trade enhancement, food safety, food security, plant health programs, education, ''buy local'' programs, increased consumption, increased innovation, improved efficiency and reduced costs of distribution systems, environmental concerns and conservation, product development, and developing cooperatives.

(d) *Grant period* means the period of time from when the grant agreement is signed until the completion of all SCBGP projects submitted in the State plan.

(e) *Grantee* means the government to which a grant is awarded and which is accountable for the use of the funds provided. The grantee is the entire legal entity even if only a particular component of the entity is designated in the grant agreement.

(f) *Outcome measure* means an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(g) *Project* means all proposed activities to be funded by the SCBGP.

(h) *Specialty crop* means fruits and vegetables, tree nuts, dried fruits, and nursery crops (including floriculture).

(i) *State* means the fifty States, the District of Columbia, and the Commonwealth of Puerto Rico.

(j) *State department of agriculture* means the agency, commission, or department of a State government responsible for agriculture within the State.

(k) *Subgrantee* means the government or other legal entity to which a subgrant is awarded and which is accountable to the grantee for the use of funds provided.

§ 1290.3 Eligible grant applicants.

Eligible grant applicants are State departments of agriculture from the fifty states, the District of Columbia, and the Commonwealth of Puerto Rico.

§ 1290.4 Eligible grant project.

(a) To be eligible for a grant, the project(s) must enhance the competitiveness of specialty crops.

(b) To be eligible for a grant, the project(s) must be completed 3 calendar years after the grant agreement prescribed in § 1290.8 is signed. The grant period is established by the longest approved project submitted in the State plan. However, for cause, an extension of the grant period not to exceed three years may be granted by AMS on a case by case basis with a written request from the State.

§ 1290.5 Restrictions and limitations on grant funds.

(a) Grant funds may not be used to fund political activities in accordance with provisions of the Hatch Act (5 U.S.C. 1501–1508 and 7324–7326).

(b) All travel expenses associated with SCBGP projects must follow Federal Travel Regulations (41 CFR Chapters 300 through 304) unless State travel requirements are in place.

(c) Grant funds shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.

§ 1290.6 Completed application.

Completed applications shall be clear and succinct and shall include the following documentation satisfactory to AMS.

(a) Completed applications must include an SF–424 ''Application for Federal Assistance''.

(b) Completed applications must also include one State plan to show how grant funds will be utilized to enhance the competitiveness of specialty crops. The state plan shall include the following:

(1) *Cover page.* Include the lead agency for administering the plan and an abstract of 200 words or less for each proposed project.

(2) *Project purpose.* Clearly state the specific issue, problem, interest, or need to be addressed. Explain why each project is important and timely.

(3) *Potential impact.* Discuss the number of people or operations affected, the intended beneficiaries of each project, and/or potential economic impact if such data are available and relevant to the project(s).

(4) *Financial feasibility.* For each project, provide budget estimates for the total project cost. Indicate what percentage of the budget covers administrative costs. Administrative costs should not exceed 10 percent of any proposed budget. Provide a justification if administrative costs are higher than 10 percent.

(5) *Expected measurable outcomes.* Describe at least two discrete, quantifiable, and measurable outcomes that directly and meaningfully support each project's purpose. The outcome measures must define an event or condition that is external to the project and that is of direct importance to the intended beneficiaries and/or the public.

(6) *Goal(s).* Describe the overall goal(s) in one or two sentences for each project.

(7) *Work plan.* Explain briefly how each goal and measurable outcome will be accomplished for each project. Be clear about who will do the work. Include appropriate time lines. Expected measurable outcomes may be long term that exceed the grant period. If so, provide a timeframe when long term outcome measure will be achieved.

(8) *Project oversight.* Describe the oversight practices that provide sufficient knowledge of grant activities to ensure proper and efficient administration.

(9) *Project commitment.* Describe how all grant partners commit to and work toward the goals and outcome measures of the proposed project(s).

(10) *Multi-state projects.* If the project is a multi-state project, describe how the States are going to collaborate effectively with related projects. Each State participating in the project should submit the project in their State plan indicating which State is taking the coordinating role and the percent of the budget covered by each State.

§ 1290.7 Review of grant applications.

Applications will be reviewed and approved or rejected as appropriate for conformance with the provisions in § 1290.6. AMS may request the applicant provide for additional information or clarification.

§ 1290.8 Grant agreements.

(a) After review and approval of a grant application, AMS will enter into a grant agreement with the State department of agriculture.

(b) AMS grant agreements will include at a minimum the following:

(1) The projects in the approved State plan.

(2) Total amount of Federal financial assistance that will be advanced.

(3) Terms and conditions pursuant to which AMS will fund the project(s).

§ 1290.9 Reporting and oversight requirements.

(a) An annual performance report will be required of all State departments of agriculture 90 days after the end of the first year of the date of the signed grant agreement and each year until the expiration date of the grant period. If the grant period is one year or less, then only a final performance report (see paragragh (b) of this section) is required. The annual performance report shall include the following:

(1) Briefly summarize activities performed, targets, and/or performance goals achieved during the reporting period for each project.

(2) Note unexpected delays or impediments as well as favorable or unusual developments for each project.

(3) Outline work to be performed during the next reporting period for each project.

(4) Comment on the level of grant funds expended to date for each project.

(b) A final performance report will be required by the State department of agriculture within 90 days following the expiration date of the grant period. The final progress report shall include the following:

(1) An outline of the issue, problem, interest, or need for each project.

(2) How the issue or problem was approached via the project(s).

(3) How the goals of each project were achieved.

(4) Results, conclusions, and lessons learned for each project.

(5) How progress has been made to achieve long term outcome measures for each project.

(6) Additional information available (*e.g.* publications, Web sites).

(7) Contact person for each project with telephone number and e-mail address.

(c) A final SF–269A ''Financial Status Report (Short Form)'' (SF–269 ''Financial Status Report (Long Form)'' if the project(s) had program income) is required within 90 days following the expiration date of the grant period.

(d) AMS will monitor States, as it determines necessary, to assure that projects are completed in accordance with the approved State plan. If AMS, after reasonable notice to a State, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, AMS may disqualify, for one or more years, the State from receipt of future grants under the SCBGP.

(e) States shall diligently monitor performance to ensure that time schedules are being met, project work within designated time periods is being accomplished, and other performance measures are being achieved.

(f) State departments of agriculture shall retain records pertaining to the SCBGP for 3 years after completion of the grant period or until final resolution of any audit findings or litigation claims relating to the SCBGP.

§ 1290.10 Audit requirements.

The State is accountable for conducting a financial audit of the expenditures of all SCBGP funds. The State shall submit to AMS not later than 30 days after completion of the audit, a copy of the audit results.

Dated: September 6, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–7580 Filed 9–6–06; 4:24 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM315; Special Conditions No. 25–327–SC]

Special Conditions: Airbus Model A380–800 Airplane; Emergency Exit Arrangement—Outside Viewing

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus A380–800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding outside viewing from emergency exits. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Airbus Model A380–800 airplane.

DATES: *Effective Date:* The effective date of these special conditions is August 28, 2006.

FOR FURTHER INFORMATION CONTACT: Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1357; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

Airbus applied for FAA certification/validation of the provisionally-designated Model A3XX–100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c).

The request was for an extension to a 7-year period, using the date of the initial application letter to the JAA as the reference date. The reason given by Airbus for the request for extension is related to the technical challenges, complexity, and the number of new and novel features on the airplane. On November 12, 1998, the Manager, Aircraft Engineering Division, AIR–100, granted Airbus' request for the 7-year period, based on the date of application to the JAA.

In its letter AI/LE–A 828.0040/99 Issue 3, dated July 20, 2001, Airbus stated that its target date for type certification of the Model A380–800 had been moved from May 2005, to January 2006, to match the delivery date of the first production airplane. In a subsequent letter (AI/L 810.0223/98 issue 3, dated January 27, 2006), Airbus stated that its target date for type certification is October 2, 2006. In accordance with 14 CFR 21.17(d)(2), Airbus chose a new application date of December 20, 1999, and requested that the 7-year certification period which had already been approved be continued. The FAA has reviewed the part 25 certification basis for the Model A380–800 airplane, and no changes are required based on the new application date.

The Model A380–800 airplane will be an all-new, four-engine jet transport airplane with a full double-deck, two-aisle cabin. The maximum takeoff weight will be 1.235 million pounds with a typical three-class layout of 555 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A380–800 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Airbus A380–800 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A380–800 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101.

Discussion of Novel or Unusual Design Features

Emergency evacuations are generally associated with adverse conditions, such as a fire outside the airplane. Because those adverse conditions may pose an immediate threat to the occupants of the airplane, it is often necessary to avoid opening emergency exits that would otherwise be usable. For this reason, it would be extremely useful to have a viewing window or other means of assessing the outside conditions to determine whether to open a particular emergency exit.

The regulations governing the certification of the A380 do not adequately address a full-length double deck airplane in terms of the exit of passengers in an emergency and a viewing window or other means of assessing the outside conditions to determine whether to open an emergency exit. Therefore, special conditions are needed to ensure that each emergency exit has a means to permit viewing of the conditions outside the exit when the exit is closed. These special conditions are based upon Notice of Proposed Rulemaking (NPRM) 96–9 and Amendment 25–116, effective November 26, 2004, which adopted a similar requirement into § 25.809(a).

Discussion of Comments

Notice of Proposed Special Conditions No. 25–05–10–SC, pertaining to Emergency Exit Arrangement—Outside Viewing, was published in the **Federal Register** on

August 9, 2005 (70 FR 46112). Comments were received from the Airline Pilots Association (ALPA) and the Boeing Company.

Requested change 1: ALPA recommends that ''* * * a special condition should be added to require that each [emergency] exit provide rescue personnel on the exterior of the aircraft a means to either determine whether the exit's emergency assist means (slide) is armed or disarmed or a means to disarm the emergency assist means from outside the aircraft.

''Consideration must be given to the exits located on the lower deck just aft of the wing (Doors 3L & 3R). A sufficient view to determine slide usability must be ensured from inside the cabin when the exits above them have been activated and their slides deployed.''

FAA response: A means to know whether the exits are disarmed when opened from the outside is covered in § 25.810(a)(1)(i). That is, the slides must automatically disarm when opened from the outside. Regarding the second point, the means to view conditions outside the exit must be sufficient to determine slide usability regardless of whether other slides have been deployed. This requirement is implicit in § 25.809(a). Therefore, we have not changed the special condition, as proposed.

Requested change 2: The Boeing Company makes the following comment:

''The certification basis for the Airbus Model A380 does *not* include Amendment 25–116, which included changes to 14 CFR 25.809 (Emergency Exit Arrangement). It appears, however that the FAA is now proposing to apply the requirements of Amendment 25–116 through Special Conditions, without any novel or unusual design features. This is contrary to part 21, which clearly specifies how the type certification basis of the airplane is to be established and when Special Conditions are warranted.''

FAA response: The FAA does not agree. The full upper deck is a novel design and warrants enhanced visibility, since passengers will be evacuating from both decks and the slides deploy close to each other. Amendment 25–116 was adopted after the special condition was initiated.

This process is very similar to the way the first widebody requirements evolved: Notice of Proposed Rulemaking 69–33 contained many proposals similar to special conditions for the 747, DC–10, and L1011 airplanes and was later adopted in large part by Amendment 25–32.

Applicability

As discussed above, these special conditions are applicable to the Airbus A380–800 airplane. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the Airbus A380–800 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special condition is issued as part of the type certification basis for the Airbus A380–800 airplane.

In addition to the requirements of § 25.809(a) at Amendment 25–72, the following special condition applies:

Each emergency exit must have means to permit viewing of the conditions outside the exit when the exit is closed. The viewing means may be on the exit or adjacent to it, provided that no obstructions exist between the exit and the viewing means. Means must also be provided to permit viewing of the likely areas of evacuee ground contact with the landing gear extended as well as in all conditions of landing gear collapse. A single device that satisfies both objectives is acceptable.

Issued in Renton, Washington, on August 28, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–15005 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM314; Special Conditions No. 25–326–SC]

Special Conditions: Airbus Model A380–800 Airplane; Stairways Between Decks

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus A380–800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding stairways between decks. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Airbus Model A380–800 airplane.

EFFECTIVE DATE: The effective date of these special conditions is August 28, 2006.

FOR FURTHER INFORMATION CONTACT: Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98055–4056; telephone (425) 227–1357; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

Airbus applied for FAA certification/validation of the provisionally-designated Model A3XX–100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c).

The request was for an extension to a 7-year period, using the date of the

initial application letter to the JAA as the reference date. The reason given by Airbus for the request for extension is related to the, technical challenges, complexity, and the number of new and novel features on the airplane. On November 12, 1998, the Manager, Aircraft Engineering Division, AIR–100, granted Airbus' request for the 7-year period, based on the date of application to the JAA.

In its letter AI/LE–A 828.0040/99 Issue 3, dated July 20, 2001, Airbus stated that its target date for type certification of the Model A380–800 had been moved from May 2005, to January 2006, to match the delivery date of the first production airplane. In a subsequent letter (AI/L 810.0223/98 issue 3, dated January 27, 2006), Airbus stated that its target date for type certification is October 2, 2006. In accordance with 14 CFR 21.17(d)(2), Airbus chose a new application date of December 20, 1999, and requested that the 7-year certification period which had already been approved be continued. The FAA has reviewed the part 25 certification basis for the Model A380–800 airplane, and no changes are required based on the new application date.

The Model A380–800 airplane will be an all-new, four-engine jet transport airplane with a full double-deck, two-aisle cabin. The maximum takeoff weight will be 1.235 million pounds with a typical three-class layout of 555 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A380–800 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Airbus A380–800 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A380–800 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101.

Discussion of Novel or Unusual Design Features

The A380 incorporates seating on two full-length passenger decks, each of which has the capacity of a typical wide body airplane. Two staircases—one located in the front of the cabin and one located in the rear—allow for the movement of persons between decks. With large seating capacities on the main deck and the upper deck of the A380–800 airplane, the staircases need to be able to support movement between decks in an inflight emergency. In addition, although compliance with the evacuation demonstration requirements of § 25.803 does not depend on the use of stairs, there must be a way for passengers on one deck to move to the other deck during an emergency evacuation. This need must be addressed in the certification of the airplane.

The regulations governing the certification of the A380 do not adequately address a passenger airplane with two separate full-length decks for passengers. The Boeing 747 and Lockheed L–1011 airplanes were certificated with limited seating capacity on two separate decks, and special conditions were issued to certificate those arrangements. When the seating capacity of the upper deck of the Boeing 747 exceeded 24 passengers, the FAA issued Special Conditions 25–61–NW–1 for a maximum seating capacity of 32 passengers on the upper deck for take-off and landing. A second set of Special Conditions, 25–71–NW–3, was issued to cover airplanes with a maximum seating capacity of 45 passengers on the upper deck for take-off and landing. That second set of Special Conditions was later modified to address airplanes with a maximum seating capacity of 110 passengers on the upper deck. These previously issued special conditions provided a starting point for the development of special conditions for the A380–800 airplane.

In the case of both the L–1011 and the 747, the special conditions were based on the requirements and associated level of safety in place at the time of application for type certificate. The requirements and the level of safety have improved significantly since that time, and these special conditions reflect those improvements.

In addition to the requirements of §§ 25.803 and 25.811 through 25.813, special conditions are needed to address the movement of passengers between the two full-length decks on the Model A380. These special conditions provide additional requirements for the stairways to ensure the safe passage of occupants between decks during moderate turbulence, an inflight emergency, or an emergency evacuation.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–05–09, pertaining to stairways between decks, was published in the **Federal Register** on August 9, 2005 (70 FR 46110). Comments were received from the Boeing Company, the Airline Pilots Association (ALPA), and the Association of Flight Attendants (AFA).

Requested change 1: The Boeing Company states that as a general matter ''a single stairway has been shown through service history of the Boeing Model 747–300 and –400 to be sufficient for an upper deck that is approved for up to 110 passengers (or has a single pair of type A exits). By comparison, the FAA is requiring a minimum of two stairways for the Model A380–800, which has *three* pairs of upper deck type A exits (or is theoretically eligible for up to 330 passengers on the upper deck).'' The commenter recommends that the special conditions state that one stairway is sufficient for an upper deck that is approved to carry no more than 110 passengers.

FAA response: The special conditions pertain to the design of the Model A380–800; thus discussion of designs that require only one stairway is not relevant.

Requested change 2: ALPA requests that a special condition be added to ensure that the stairway can be used when the aircraft fuselage suffers minor deformation during a survivable accident or incident.

FAA response: The stairway design must comply with all structural requirements; therefore, no change has been made to the special conditions, as proposed.

Requested change 3: In terms of Special Condition a., ALPA suggests the following:

''The procedures developed to accommodate the carriage of an incapacitated person from one deck to the other should be demonstrated using personnel from air carrier crews,

representing the largest and smallest persons that the carriers may employ and with the same level of training that will be provided in service.''

FAA response: The FAA does not believe that this is necessary. The design of the stairway must be demonstrated to be suitable for evacuation of an incapacitated person, and this might be accomplished by either crew or passengers assisting the crew. The intent of this requirement is to ensure that one of the stairs provide a means to transport an incapacitated person from the upper deck, in much the way such a person would be evacuated along the aisle of a single deck airplane. Any crew duties necessary to facilitate the evacuation should be consistent with existing processes and not require extraordinary effort. The comment is related more to the means of demonstrating compliance with the requirement than the substance of the requirement itself. Therefore, we have not changed the special condition, as proposed.

Requested change 4: The Boeing Company requests that Special Condition b. be revised to read as follows:

''There must be at least two stairways between decks that meet the following requirements:

''The stairways must be designed * * * One of these stairways must be the stairway specified in paragraph a. above.''

FAA response: The suggested wording is more explicit than that proposed, and we have changed the wording of Special Condition b. accordingly.

Requested change 5: Regarding Special Condition c.1., AFA seeks clarification of the types of assistance needed by cabin crew in regard to merging of passengers from the two decks into the stairways. The commenter adds that, ''Analysis is not an acceptable tool for demonstrating these requirements [for each stairway between decks].''

FAA response: The assistance provided would be consistent with that currently provided by flight attendants to facilitate evacuation. In terms of the method of demonstration used to substantiate that the requirements are met, testing is more likely but analysis could be an appropriate method. Accordingly, no change has been made to the special conditions, as proposed.

Requested change 6: Both the Boeing Company and AFA suggest revising Special Condition c.2. to require a handrail on both sides of a stairway, if the stairway is wide enough to accommodate more than a single lane of persons. AFA also suggests that there be a special condition relative to limit loads on the handrails.

FAA response: The current design provides two handrails. The FAA does not consider it necessary to require two handrails, although other performance requirements in this special condition for the stairs may dictate the need for two handrails.

The proposed special conditions require that the handrail design address foreseeable operating conditions, including turbulence and adverse attitude. This will necessitate a structural design capable of performing its function under those conditions. Stating the requirement objectively rather than prescriptively permits more flexibility in the design and takes the specific installation into account. In fact, Airbus has used the design specifications from other industries in the design of the stairs; in practice, therefore, those strength criteria will form the baseline for the design.

Requested change 7: The Boeing Company suggests revising Special Condition c.4. to address narrow stairways with handrails on both sides, because such a stairway ''can be used safely in the conditions specified without requiring a wall above the handrail or equivalent on each side.''

FAA response: The special condition permits an equivalent means, so that—if the use of a handrail were shown to be equivalent in certain cases—the special condition would permit its use.

Requested change 8: AFA supports Special Condition c.5. and suggests that there should also be special conditions ''requiring that the surface of the treads and landings should also be designed to include adequate slip resistant properties. Additionally, the treads and risers should have uniform dimensions in order to allow the user to establish a uniform gait when using the stairway.''

FAA response: The regulations already address slip resistance for surfaces likely to become wet in service, so this aspect is not novel. In terms of the detailed design of the treads and risers, rather than being prescriptive, we are using a performance based approach in the special condition. Performance-based requirements will very likely drive the design, as suggested, since the suggested features are generally regarded as necessary to achieve efficient and safe stair usage.

Requested change 9: Although acknowledging that the proposed illumination level is the same as for the rest of the airplane interior, ALPA states that the proposed level of illumination for the stairway is far too low. The commenter recommends that the illumination should be an average of 1 foot-candle with a minimum of 0.1 foot-candle. This is the same as that specified in the NFPA Life Safety Code, 1997.

FAA response: As noted by ALPA, the emergency lighting level is consistent with the other requirements for emergency lighting in the cabin as well as for stairs on other airplanes. The general emergency lighting requirements concerning battery discharge and cold-soak will also apply to the lighting on the stairs, so the typical illumination values will, in fact, be much higher. The proposed standards have demonstrated satisfactory service experience. Therefore, we have made no change to the special condition, as proposed.

Requested change 10: The Boeing Company suggests revising Special Condition c.8. to read as follows:

''An exit sign must be provided in the upper deck near the stairway, visible to upper deck passengers while seated or standing. In addition, the upper end of the stairway must include an exit sign visible to passengers while descending the stairway, leading them to main deck exits beyond the sign. Both exit signs must meet the requirements of Sec. 25.812(b)(1)(ii).'' The commenter further recommends that—if a lower exit sign is required in the stairway—the sign should not be visible to main deck passengers who are not on the stairs.

FAA response: As proposed, Special Condition c.8. specifies that an exit sign be visible to a person on the stairway. This will provide guidance to people using the stairway, but not necessarily direct people to the stairway. The optimum evacuation strategy is for people to evacuate from the deck on which they are seated. Adding signs to direct people to the stairs could actually slow the overall evacuation. Conversely, if people do use the stairs, they will have an indication that exits are available. Therefore, we have not changed the text of the Special Conditions, as proposed.

Requested change 11: The Boeing Company suggests that Special Condition d. be revised to read, ''Each entrance or path to the entrance of a stairway must be visible from a seat designated for flight attendants' use during taxi, takeoff, and landing. Cabin crew procedures and positions must be established. * * *''

A comment submitted by AFA states, ''AFA agrees that cabin crew positions and procedures need to be established to help *manage* the use of the stairs between decks but do not believe that cabin crew can ''control'' or prevent movement of * * * passengers between the two decks.'' The commenter

suggests replacing the word ''control'' with the word ''manage'' [or ''management''] to reflect a more realistic situation.

FAA response: The direct view requirements will be applied to the stairs as they are to other egress paths. The FAA agrees that ''manage'' is a better term than ''control'' and has changed the text of Special Condition d. accordingly.

Applicability

As discussed above, these special conditions are applicable to the Airbus A380–800 airplane. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the Airbus A380–800 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Airbus A380–800 airplane.

In addition to the requirements of §§ 25.803 and 25.811 through 25.813, the following special conditions apply:

a. At least one stairway between decks must meet the following requirements:

The stairway accommodates the carriage of an incapacitated person from one deck to the other. The crew member procedures for such carriage must be established.

b. There must be at least two stairways between decks that meet the following requirements: The stairways must be designed such that evacuees can achieve an adequate rate for going down or going up under probable emergency conditions, including a condition in which a person falls or is incapacitated while on a stairway. One of the stairways must be the stairway specified in paragraph a. above.

c. Each stairway between decks must meet the following requirements:

1. It must have an entrance, exit, and gradient characteristics that—with the assistance of a crew member—would allow the passengers of one deck to merge with passengers of the other deck during an evacuation and exit the airplane. These entrance, exit, and gradient characteristics must occur with the airplane in level attitude and in each attitude resulting from the collapse of any one or more legs of the landing gear. These requirements must be demonstrated by tests and/or analysis.

2. The stairway must have a handrail on at least one side in order to allow people to steady themselves during foreseeable conditions, including but not limited to the condition of gear collapse on the ground and moderate turbulence in flight. The handrails must be constructed, so that there will be no obstruction on them which will cause the user to release his/her grip on the handrail or will hinder the continuous movement of the hands along the handrail. Handrails must be terminated in a manner which will not obstruct pedestrian travel or create a hazard. Adequacy of the design must be demonstrated by using persons representative of the 5% female and the 95% male.

3. The stairway must be designed and located to minimize damage to it during an emergency landing or ditching.

4. The stairway must have a wall or the equivalent on each side to minimize the risk of falling and to facilitate use of the stairway under conditions of abnormal airplane attitude.

5. Treads and landings must be designed and demonstrated to be free of hazard. The landing area at each deck level must be demonstrated to be adequate in terms of flow rate for the maximum number of people that will be using the stair in an emergency. Treads and risers must be designed to ensure an easy and safe use of the stairway.

6. General emergency illumination must be provided so that—when measured along the centerlines of each tread and landing—the illumination is not less than 0.05 foot-candle.

7. In normal operation, the general illumination level must not be less than 0.05 foot-candles. The assessment must be done under day light and dark of night conditions.

8. Both stairway ends must be indicated by an exit sign visible to passengers when in the stairway. This exit sign must meet the requirements of § 25.812(b)(1)(ii).

9. A floor proximity path marking system which meets the requirements of § 25.812(e) must be available to guide passengers in the stairway to the stairway ends. It must not direct the occupants of the cabin to the stair entrance.

10. The public address system must be audible in the stairway during all flight phases.

11. ''No smoking'' and ''return to seat'' signs must be installed and must be visible in the stairway both going up and down and at the stairway entrances.

d. Cabin crew procedures and positions must be established to manage the use of the stairs on the ground and in flight under both normal and emergency situations. This may require that cabin crew members have specific dedicated duties for the management of the stairs during emergency and precautionary evacuations.

e. It should not be hazardous for crew members or passengers who are returning to their seats to use the stairways during moderate turbulence.

Issued in Renton, Washington, on August 28, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–15001 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM318; Special Conditions No. 25–329–SC]

Special Conditions: Airbus Model A380–800 Airplane, Escape Systems Installed in Non-Pressurized Compartments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus A380–800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding escape systems installed in non-pressurized compartments. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional

special conditions will be issued for other novel or unusual design features of the Airbus Model A380–800 airplane.

DATES: *Effective Date:* The effective date of these special conditions is August 28, 2006.

FOR FURTHER INFORMATION CONTACT: Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1357; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

Airbus applied for FAA certification/validation of the provisionally-designated Model A3XX–100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c).

The request was for an extension to a 7-year period, using the date of the initial application letter to the JAA as the reference date. The reason given by Airbus for the request for extension is related to the technical challenges, complexity, and the number of new and novel features on the airplane. On November 12, 1998, the Manager, Aircraft Engineering Division, AIR–100, granted Airbus' request for the 7-year period, based on the date of application to the JAA.

In its letter AI/LE–A 828.0040/99 Issue 3, dated July 20, 2001, Airbus stated that its target date for type certification of the Model A380–800 had been moved from May 2005, to January 2006, to match the delivery date of the first production airplane. In a subsequent letter (AI/L 810.0223/98 issue 3, dated January 27, 2006), Airbus stated that its target date for type certification is October 2, 2006. In accordance with 14 CFR 21.17(d)(2), Airbus chose a new application date of December 20, 1999, and requested that the 7-year certification period which had already been approved be continued. The FAA has reviewed the part 25 certification basis for the Model A380–800 airplane, and no changes are required based on the new application date.

The Model A380–800 airplane will be an all-new, four-engine jet transport airplane with a full double-deck, two-aisle cabin. The maximum takeoff weight will be 1.235 million pounds with a typical three-class layout of 555 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A380–800 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Airbus A380–800 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A380–800 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101.

Discussion of Novel or Unusual Design Features

All of the escape systems on the upper deck and one pair of the escape systems on the main deck of this airplane are installed in non-pressurized compartments. These non-pressurized compartments will be exposed to extremely cold temperatures on every flight.

When the certification testing was conducted for previous airplane programs, the FAA considered that the extreme environmental conditions to which the escape systems can be exposed would be independent of one another. For example, the escape system would be tested under conditions of extreme cold in one test and exposed to 25-knot winds at ambient temperature in a separate test. On the Model A380–800 airplane, however, all the upper deck escape systems and one pair of the main deck escape systems are located in non-pressurized compartments. As a result, these escape systems will be exposed to extremely cold temperatures on every flight. Therefore, they must be tested under conditions of both extremely cold temperatures and strong winds.

In the past, several airplanes have had a pair of escape systems installed in non-pressurized compartments. These escape systems were off-wing systems that are less affected by wind than are other escape systems, and only one pair of exits was affected. Testing the combined effects of extremely cold temperature and strong winds was not required for these systems. On the A380, however, one-half of the escape systems are installed in non-pressurized compartments. Therefore, the adverse effects of a failure of the escape system—due to the combination of extremely cold temperatures and strong wind—would be much more severe.

The regulations do not adequately address escape systems installed in non-pressurized compartments; therefore, a special condition is needed to require the applicant to demonstrate that escape systems in non-pressurized compartments function properly when exposed to both extremely cold temperatures and strong winds.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–05–13–SC, pertaining to escape systems installed in non-pressurized compartments, was published in the **Federal Register** on August 9, 2005 (70 FR 46099). Comments were received from the Airline Pilots Association (ALPA) and from an individual commenter.

Requested change 1: ALPA suggests that the special conditions ''should be amended to ensure that the testing done to evaluate that the escape system functions correctly after exposure to cold soak and high altitude also evaluates the repeated cycling of these parameters. In addition, exposure to heat and humidity, water intrusion and the introduction of precipitation propelled at and past the slide compartment at speeds equal to those used in approaches and departures should also be evaluated.''

FAA response: Evaluation of the response of the escape systems installed in non-pressurized compartments to these environmental conditions is required by 14 CFR 25.1309 and will be addressed as part as the compliance demonstration for the escape systems. Accordingly, we have not changed the special condition, as proposed.

Requested change 2: The individual commenter addresses the stowage of survival kits with the slide/rafts in non-

pressurized locations. He states that, ''The safety issue is that the life/raft items are not immediately ready and attached to the slide/raft in a ditching as they are on slide/rafts stored in the pressurized section of aircraft.''

FAA response: Stowage of survival kits has not yet been resolved for the upper deck slide/rafts. In the case of portable life rafts, the entire raft must be retrieved for ditching; with slide/rafts, the raft is available automatically when the exit is opened. It may be feasible to stow the survival kit separately from the slide/raft and maintain the same level of safety as that provided by portable rafts, and that would be an acceptable design alternative. This can be addressed within the existing regulations. Therefore, no change has been made to the special conditions, as proposed.

Applicability

As discussed above, these special conditions are applicable to the Airbus A380–800 airplane. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the Airbus A380–800 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Airbus A380–800 airplane.

In addition to the requirements of §§ 25.810, 25.1301 and 25.1309, the following special condition applies:

For the escape systems on the Model A380–800 airplane that are installed in non-pressurized compartments and thus are exposed to extremely cold temperatures on every flight, it must be demonstrated that the escape systems function properly in the combination of the cold soak associated with long flight at altitude and a 25-knot wind from the critical angle.

Issued in Renton, Washington, on August 28, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–15011 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM317; Special Conditions No. 25–328–SC]

Special Conditions: Airbus Model A380–800 Airplane, Flotation and Ditching

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus A380–800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding flotation and ditching. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Airbus Model A380–800 airplane.

DATES: *Effective Date:* The effective date of these special conditions is August 28, 2006.

FOR FURTHER INFORMATION CONTACT: Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1357; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

Airbus applied for FAA certification/validation of the provisionally-designated Model A3XX–100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c).

The request was for an extension to a 7-year period, using the date of the initial application letter to the JAA as the reference date. The reason given by Airbus for the request for extension is related to the technical challenges, complexity, and the number of new and novel features on the airplane. On November 12, 1998, the Manager, Aircraft Engineering Division, AIR–100, granted Airbus' request for the 7-year period, based on the date of application to the JAA.

In its letter AI/LE–A 828.0040/99 Issue 3, dated July 20, 2001, Airbus stated that its target date for type certification of the Model A380–800 had been moved from May 2005, to January 2006, to match the delivery date of the first production airplane. In a subsequent letter (AI/L 810.0223/98 issue 3, dated January 27, 2006), Airbus stated that its target date for type certification is October 2, 2006. In accordance with 14 CFR 21.17(d)(2), Airbus chose a new application date of December 20, 1999, and requested that the 7-year certification period which had already been approved be continued. The FAA has reviewed the part 25 certification basis for the Model A380–800 airplane, and no changes are required based on the new application date.

The Model A380–800 airplane will be an all-new, four-engine jet transport airplane with a full double-deck, two-aisle cabin. The maximum takeoff weight will be 1.235 million pounds with a typical three-class layout of 555 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A380–800 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Airbus A380–800 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A380–800 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise

certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2), Amendment 21–69, effective September 16, 1991.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101.

Discussion of Novel or Unusual Design Features

While the main deck of the A380–800 airplane has five pairs of type A exits, these are not sufficient for the total number of persons on board the airplane. Therefore, the upper deck exits must also be used as ditching exits. As a result, the upper deck exits are being equipped with slide/rafts. With two decks, there is the possibility of interference between the slides/rafts of the upper deck and the slide/rafts or rafts of the main deck.

Since 14 CFR part 25 does not address the use of upper deck exits as ditching exits, special conditions are necessary to ensure that occupants can be safely evacuated from these exits following a ditching event.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–05–12–SC, pertaining to flotation and ditching, were published in the **Federal Register** on August 9, 2005 (70 FR 46115). Comments were received from the Airline Pilots Association (ALPA) and an individual commenter.

Requested change 1: ALPA suggests that in general the special conditions ''should evaluate the arrangement and utility of the slide/rafts at each exit using a realistic range of aircraft configurations and sea state.''

Regarding proposed Special Condition b., ALPA recommends that ''The demonstration of the boarding of the upper deck slide/rafts should be done using crewmembers from air carriers operating the aircraft. In addition, these crewmembers should have had no training beyond that which will be provided to regular line crewmembers.''

FAA response: Demonstrations of the slide/rafts will consider a realistic range of airplane configurations and sea states. These demonstrations and the associated crew training will be consistent with current practice. The A380–800 is not novel with respect to those matters. Therefore, we have made no change to the special conditions, as proposed.

Requested change 2: In terms of proposed Special Condition c., an individual commenter expressed concern about interference between the M3 slide/raft and other slide/rafts. ALPA commented that preventing such interference should not rely on crew procedures.

FAA response: Since the M3 exit will not be used as a ditching exit, proposed Special Condition c. is not included in these Final Special Conditions. Should this exit later be reinstated as a ditching exit, appropriate requirements will be developed for its use.

Applicability

As discussed above, these special conditions are applicable to the Airbus A380–800 airplane. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the Airbus A380–800 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Airbus A380–800 airplane.

In addition to the requirements of §§ 25.801, 25.807(i), 25.810, 25.1411, and 25.1415, the following special conditions apply:

a. For door sill heights that would be greater than six (6) feet above the waterline during a ditching event, an assist means must be provided from the airplane to the water.

b. Boarding of the upper deck slide/rafts must be demonstrated for the rated and overload capacity of the slide/rafts from the representative door sill heights associated with planned and unplanned ditching. The boarding procedure must ensure that the occupants boarding the slide/rafts remain on the slide/raft whether the occupants enter the slide/raft or raft by walking, jumping or sliding. In addition, the boarding procedure must not result in injury either to occupants entering the slide/raft or to occupants already in the slide/raft.

c. It must be demonstrated that the upper deck slide/rafts located at doors U1 and U2 (just forward and just aft of the wing) can be safely separated from the airplane. Safety considerations include damage to the slide/rafts, injury to occupants of the slide/raft, ejection of the occupants from the slide/raft into the water as a result of the contact with the wing, and the slide/raft becoming beached on the wing. Probable damage to the wing leading and trailing edge flight control structure during a water landing must be considered when assessing the damage caused to the slide/rafts or life rafts.

d. It must be demonstrated that when the upper deck slide/rafts are separated from the airplane, they do not injure occupants of the slide/raft, eject occupants of the slide/raft into the water, or damage the slide/raft in a way that affects its seaworthiness.

Issued in Renton, Washington, on August 28, 2006

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–15012 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM320; Special Conditions No. 25–330–SC]

Special Conditions: Airbus Model A380–800 Airplane, Escape Systems Inflation Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Airbus A380–800 airplane. This airplane will have novel or unusual design features when compared to the state of technology envisioned in the airworthiness standards for transport category airplanes. Many of these novel or

unusual design features are associated with the complex systems and the configuration of the airplane, including its full-length double deck. For these design features, the applicable airworthiness regulations do not contain adequate or appropriate safety standards regarding escape system reliability. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards. Additional special conditions will be issued for other novel or unusual design features of the Airbus Model A380–800 airplane.

DATES: *Effective Date:* The effective date of these special conditions is August 28, 2006.

FOR FURTHER INFORMATION CONTACT: Holly Thorson, FAA, International Branch, ANM–116, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1357; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Background

Airbus applied for FAA certification/validation of the provisionally-designated Model A3XX–100 in its letter AI/L 810.0223/98, dated August 12, 1998, to the FAA. Application for certification by the Joint Aviation Authorities (JAA) of Europe had been made on January 16, 1998, reference AI/L 810.0019/98. In its letter to the FAA, Airbus requested an extension to the 5-year period for type certification in accordance with 14 CFR 21.17(c).

The request was for an extension to a 7-year period, using the date of the initial application letter to the JAA as the reference date. The reason given by Airbus for the request for extension is related to the technical challenges, complexity, and the number of new and novel features on the airplane. On November 12, 1998, the Manager, Aircraft Engineering Division, AIR–100, granted Airbus' request for the 7-year period, based on the date of application to the JAA.

In its letter AI/LE–A 828.0040/99 Issue 3, dated July 20, 2001, Airbus stated that its target date for type certification of the Model A380–800 had been moved from May 2005, to January 2006, to match the delivery date of the first production airplane. In a subsequent letter (AI/L 810.0223/98 issue 3, dated January 27, 2006), Airbus stated that its target date for type certification is October 2, 2006. In accordance with 14 CFR 21.17(d)(2), Airbus chose a new application date of December 20, 1999, and requested that the 7-year certification period which had already been approved be continued. The FAA has reviewed the part 25 certification basis for the Model A380–800 airplane, and no changes are required based on the new application date.

The Model A380–800 airplane will be an all-new, four-engine jet transport airplane with a full double-deck, two-aisle cabin. The maximum takeoff weight will be 1.235 million pounds with a typical three-class layout of 555 passengers.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Airbus must show that the Model A380–800 airplane meets the applicable provisions of 14 CFR part 25, as amended by Amendments 25–1 through 25–98. If the Administrator finds that the applicable airworthiness regulations do not contain adequate or appropriate safety standards for the Airbus A380–800 airplane because of novel or unusual design features, special conditions are prescribed under the provisions of 14 CFR 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Airbus Model A380–800 airplane must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36. In addition, the FAA must issue a finding of regulatory adequacy pursuant to section 611 of Public Law 93–574, the ''Noise Control Act of 1972.''

Special conditions, as defined in 14 CFR 11.19, are issued in accordance with 14 CFR 11.38 and become part of the type certification basis in accordance with 14 CFR 21.17(a)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of 14 CFR 21.101.

Discussion of Novel or Unusual Design Features

The inflation system for the escape systems associated with the exits includes a pressurized cylinder with a mixture of carbon dioxide and argon in both gaseous and liquid states. The inflation system also includes a smaller cylinder containing a solid propellant that burns to generate gaseous propellant. The opening of the valve and the ignition of the propellant are accomplished by the firing of squibs. The firing of these squibs is sequenced to improve their performance in the extreme temperatures to which they are subjected. Firing of the squibs is controlled by a system mounted on the emergency exit.

The proposed design for the escape systems on the A380 is much more complex than the design of systems currently in use. Typically, inflation systems for escape systems consist of a pressurized cylinder containing a mixture of gases and a regulator valve that reduces the outlet pressure supplied from the inflation cylinder. The regulator valve is opened either by mechanical means or by the firing of a squib.

The regulations governing the certification of the A380 do not adequately address the certification requirements of this type of inflation system for an escape system. Furthermore, the Technical Standard Order (TSO) that addresses escape systems (*i.e.*, TSO–C69c) does not adequately address this type of inflation system. The current requirements for escape system reliability are predicated on a simple inflation system, where reliability is driven by the performance of the inflatable itself. The existing requirements do not account for an inflation system that could adversely affect the overall reliability of the escape system.

Since the A380 has 16 emergency exits, the requirements of § 25.810 require a total of 80 successful deployments (5 successive deployments for each exit). However, since the requirements apply to each system independently, failures in a system common to all the escape systems would not be adequately addressed. Therefore, the inflation system needs a specific requirement that will show adequate system reliability. With a goal of achieving 95% reliability of the inflation system with a 95% confidence, we are establishing such a requirement. As we noted above, the propellant used is designed to burn. The regulations do not address this type of propellant, and some measure of fire safety protection is needed. United Nations document No. ST/SG/AC.10/I1/Rev.3 ''Transport of Dangerous Goods, Manual of Tests and Criteria,'' section 13.7.1, contains a small scale test that addresses this concern. Propellants that pass this test will not be a fire hazard.

Therefore, a special condition is needed to ensure that the inflation system for the A380 escape system is reliable and that the propellant itself does not constitute a fire hazard.

Discussion of Comments

Notice of Proposed Special Conditions No. 25–05–15–SC, pertaining to escape systems inflation systems, was published in the **Federal Register** on August 9, 2005, (70 FR 46100). Comments were received from the Airline Pilots Association (ALPA) and an individual commenter.

Requested change 1: ALPA recommends that the tests of the inflation system ''be conducted on the aircraft (or a mockup). Bench testing does not adequately ensure that the entire system will have the declared reliability. The system and its components should be subjected to accelerated aging representative of long-term storage (temperature and pressure cycling), long term exposure (high and low frequency vibration) as part of each test.'' ALPA adds that ''the inflation systems should be demonstrated to function in winds from the most severe angle at speeds up to at least the maximum wind speed (gust included) for which flight operations can occur.''

FAA response: Many of these recommendations go beyond current regulatory requirements for inflation systems. For example, wind performance is already specified in 14 CFR part 25. The purpose of the special conditions is to establish criteria that will validate that the reliability of the inflation system as a component will not drive the overall reliability of the escape system. Thus tests on the escape slides installed on the airplane will be performed as is consistent with current practice, and additional tests will be performed on the inflation system itself. Accordingly, we have not changed the special conditions, as proposed.

Requested change 2: An individual commenter expresses concern about various aspects of the inflation system, including its output of high temperature gas; residue from combustion of the solid propellant; high pressure produced in the inflation system; activation of the inflation system, including inadvertent activation by a lightning strike; and the need for a redundant manual (backup) power source for the inflation system.

FAA response: These comments relate to the general safety and suitability of the inflation system for the escape system and its related components. These are fundamental considerations for any airplane system. Although the inflation system may warrant highly specific considerations, it is the need to show the reliability of the system relative to conventional design that makes it novel. Showing that the system elements are compatible with one another is a basic certification requirement for any system.

To address the novel features of the inflation system requires imposition of special conditions in addition to the applicable requirements of § 25.1301. The slide must be both soaked and inflated at a range of temperatures to determine its operating range. The minimum pressures are determined to establish evacuation rate and stiffness. Therefore, the initial internal pressure of the slide will not be an issue in the qualification. The electrical systems are protected against lightning by other requirements. The manual backup is, indeed, an alternative electrical supply, which is addressed in the system safety analysis. Accordingly, we have not changed the special conditions, as proposed.

Applicability

As discussed above, these special conditions are applicable to the Airbus A380–800 airplane. Should Airbus apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design features, these special conditions would apply to that model as well under the provisions of § 21.101.

Conclusion

This action affects only certain novel or unusual design features of the Airbus A380–800 airplane. It is not a rule of general applicability.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

■ The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for the Airbus A380–800 airplane.

a. In addition to the requirements of § 25.810, the following special condition applies:

To ensure that the inflation system is a reliable design, it must be tested using 84 inflation/firing system bench tests with no more than one failure. For these special conditions, the inflation/firing system is defined as everything upstream of the outlet connection to the inflation valve, which includes but is not limited to the door-mounted systems that provide the firing signals to the squibs, the squibs themselves, the solid propellant, and the valve.

b. In addition to the requirements of § 25.853(a) and Appendix F Part I (a)(ii), in standard atmosphere conditions, the following special condition applies:

To ensure that the propellant itself does not contribute significantly to a fire, the propellant must be subjected to and must pass a standard ''Small-Scale Burning Test,'' as specified in United Nations document No. ST/SG/AC.10/11/Rev. 3 ''Transport of Dangerous Goods, Manual of Tests and Criteria,'' section 13.7.1.

Issued in Renton, Washington, on August 28, 2006.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–15010 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25097; Directorate Identifier 2005–SW–19–AD; Amendment 39–14762; AD 2006–19–05]

RIN 2120–AA64

Airworthiness Directives; Arrow Falcon Exporters, Inc. (Previously Utah State University); Firefly Aviation Helicopter Services (Previously Erickson Air-Crane Co.); California Department of Forestry; Garlick Helicopters, Inc.; Global Helicopter Technology, Inc.; Hagglund Helicopters, LLC (Previously Western International Aviation, Inc.); International Helicopters, Inc.; Precision Helicopters, LLC; Robinson Air Crane, Inc.; San Joaquin Helicopters (Previously Hawkins and Powers Aviation, Inc.) S.M.&T. Aircraft (Previously U.S. Helicopters, Inc., UNC Helicopter, Inc., Southern Aero Corporation, and Wilco Aviation); Smith Helicopters; Southern Helicopter, Inc.; Southwest Florida Aviation International, Inc. (Previously Jamie R. Hill and Southwest Florida Aviation); Tamarack Helicopters, Inc. (Previously Ranger Helicopter Services, Inc.); U.S. Helicopter, Inc. (Previously UNC Helicopter, Inc.); West Coast Fabrication; and Williams Helicopter Corporation (Previously Scott Paper Co.) Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P Helicopters; and Southwest Florida Aviation Model SW204, SW204HP, SW205, and SW205A–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) for the specified restricted category type-certificated helicopters. The AD requires a review of the helicopter records to determine the Commercial and Government Entity (CAGE) code of the tail rotor (T/R) slider. If the T/R slider is FAA approved or has a certain legible CAGE code, this AD requires no further action. If you cannot determine whether the T/R slider is FAA approved and it has no stamped CAGE code, an illegible stamped CAGE code, or an affected CAGE code, the AD also requires, before further flight and at specified intervals, magnaflux inspecting the T/R slider for a crack. If a crack is found, the AD requires, before further flight, replacing the T/R slider with an airworthy T/R slider. The AD also requires replacing the T/R slider with an airworthy T/R slider on or before accumulating 1,000 hours time-in-service (TIS) or on or before 12 months, whichever occurs first. This amendment is prompted by two accidents attributed to sub-standard T/R sliders that failed during flight. The actions specified by this AD are intended to prevent failure of a T/R slider, loss of T/R control, and subsequent loss of control of the helicopter.

DATES: Effective October 16, 2006.

Examining the Docket

You may examine the docket that contains this AD, any comments, and other information on the Internet at *http://dms.dot.gov,* or at the Docket Management System (DMS), U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, on the plaza level of the Nassif Building, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Kreg Voorhies, Aerospace Engineer, Denver Aircraft Certification Office (ANM–100D), 26805 E. 68th Ave., Room 214, Denver, Colorado 80249, telephone (303) 342–1092, fax (303) 342–1088.

SUPPLEMENTARY INFORMATION: A proposal to amend 14 CFR part 39 to include an AD for the specified restricted category type-certificated helicopters was published in the **Federal Register** on June 22, 2006 (71 FR 35840). That action proposed to require a review of the helicopter records to determine the CAGE code of the T/R slider. If the T/R slider is FAA approved or has a certain legible CAGE code, the AD proposed no further action. If you cannot determine whether the T/R slider is FAA approved or if it has an illegible CAGE code or CAGE Code 15716 or 26098, the AD proposed, before further flight and at specified intervals, magnaflux inspecting the T/R slider for a crack. If a crack is found, the AD proposed, before further flight, replacing the T/R slider with an airworthy T/R slider. The AD also proposed replacing the T/R slider that has an illegible CAGE code or Code 15716 or 26098 with an airworthy T/R slider on or before accumulating 1,000 hours TIS or on or before 12 months, whichever occurs first.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

We estimate that this AD will affect 75 helicopters of U.S. registry and that it will take about:

- 1 work hour to review the helicopter records and 2 work hours to remove and replace the T/R slider for a total of 3 work hours per helicopter to determine the CAGE code for each helicopter in the fleet;
- 3 work hours for each magnaflux inspection with a total of 24 such inspections on each of 10 helicopters based on 600 hours TIS per year; and
- 2 work hours to replace the T/R slider with 10 helicopters needing the T/R slider replaced.

The average labor rate is $65 per work hour. Required parts will cost about $825 for each T/R slider. Based on these figures, we estimate the total cost impact of the AD on U.S. operators to be $70,975 ($195 per helicopter to determine the CAGE code and $5,635 per helicopter for repetitively inspecting and ultimately replacing the T/R slider on 10 helicopters).

Regulatory Findings

We have determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and
3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared an economic evaluation of the estimated costs to comply with this AD. See the DMS to examine the economic evaluation.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that

section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. Section 39.13 is amended by adding a new airworthiness directive to read as follows:

2006–19–05 Arrow Falcon Exporters, Inc. (previously Utah State University); California Department of Forestry; Firefly Aviation Helicopter Services (previously Erickson Air-Crane Co.); Garlick Helicopters, Inc.; Global Helicopter Technology, Inc.; Hagglund Helicopters, LLC (previously Western International Aviation, Inc.); International Helicopters, Inc.; Precision Helicopters, LLC; Robinson Air Crane, Inc.; San Joaquin Helicopters (previously Hawkins and Powers Aviation, Inc.); S.M.&T. Aircraft (previously U.S. Helicopters, Inc., UNC Helicopter, Inc., Southern Aero Corporation, and Wilco Aviation); Smith Helicopters; Southern Helicopter, Inc.; Southwest Florida Aviation International, Inc. (previously Jamie R. Hill and Southwest Florida Aviation); Tamarack Helicopters, Inc. (previously Ranger Helicopter Services, Inc.); U.S. Helicopters, Inc. (previously UNC Helicopter, Inc.); West Coast Fabrication; and Williams Helicopter Corporation (previously Scott Paper Co.): Amendment 39–14762; Docket No. FAA–2006–25097; Directorate Identifier 2005–SW–19–AD.

Applicability: Model HH–1K, TH–1F, TH–1L, UH–1A, UH–1B, UH–1E, UH–1F, UH–1H, UH–1L, and UH–1P helicopters, and Southwest Florida Model SW204, SW204HP, SW205, and SW205A–1 helicopters, with tail rotor (T/R) slider, part number (P/N) 204–010–720–3 or P/N 204010720–3, installed, certificated in any category.

Compliance: Required as indicated.

To prevent failure of the T/R slider, which could result in loss of T/R control and subsequent loss of control of the helicopter, accomplish the following:

(a) Within 25 hours time-in-service (TIS), unless accomplished previously:

(1) Review the helicopter records to determine the Commercial and Government Entity (CAGE) code of the T/R slider. If necessary, remove the installed T/R slider to determine the CAGE code.

(2) If the T/R slider is an FAA approved part; for example, an original equipment manufacturer (OEM) part, and has a legible CAGE code other than Code 15716 or 26098; no further action is required.

(3) If you cannot determine whether the T/R slider is an FAA approved part and it contains no stamped CAGE code, an illegible stamped CAGE code, or is stamped with a CAGE code 15716 or 26098:

(i) Before further flight, unless accomplished previously, and thereafter at intervals not to exceed 25 hours TIS, magnaflux inspect the T/R slider for a crack.

(ii) If a crack is found, before further flight, replace the cracked T/R slider with an airworthy T/R slider.

Note 1: T/R sliders manufactured by Forest Scientific, Inc., were produced under a military contract and do not meet the OEM specifications. The machining process resulted in excess surface roughness. See Figure 1 of this AD.

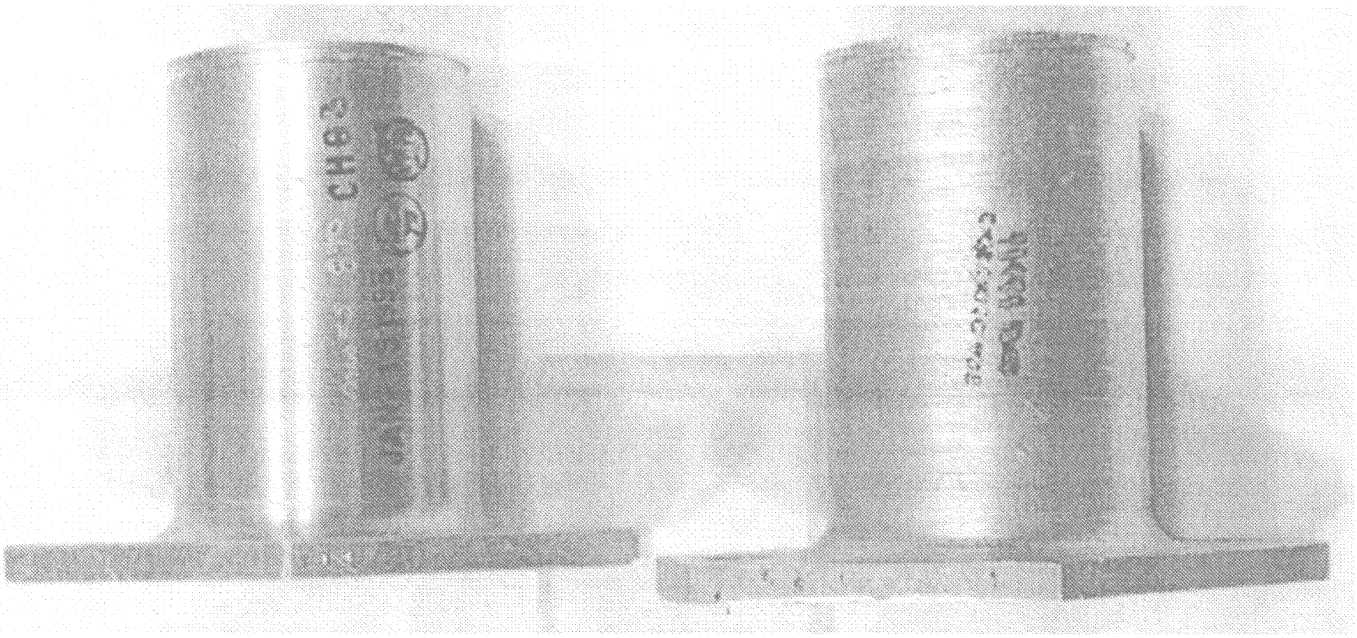

FIGURE 1

Tail rotor sliders manufactured by Bell Helicopter Textron, Inc. (left) and Forest Scientific, Inc. (right). Note the rough finish of the Forest Scientific, Inc.-manufactured T/R slider compared to the one shown on the left.

Note 2: T/R sliders manufactured by Bell Helicopter Textron, Inc. have a vibro-etched P/N on them and do not have a CAGE code marking on the part.

(iii) On or before accumulating 1000 hours TIS or on or before 12 months, whichever occurs first, replace each T/R slider that has an illegible CAGE code or Code 15716 or 26098 with an FAA approved airworthy slider without a CAGE code or with a legible CAGE code other than 15716 or 26098. Any T/R slider removed from service based on the requirements of this paragraph is not eligible for installation on any helicopter.

(iv) Replacing the T/R slider with an FAA approved airworthy T/R slider without a CAGE code or with a legible CAGE code other than 15716 or 26098, constitutes terminating action for the requirements of this AD.

(b) To request a different method of compliance or a different compliance time for this AD, follow the procedures in 14 CFR 39.19. Contact the Manager, Denver Aircraft Certification Office (ANM–100D), ATTN: Kreg Voorhies, Aerospace Engineer, 26805 E. 68th Ave., Room 214, Denver, Colorado 80249, telephone (303) 342–1092, fax (303) 342–1088, for information about previously approved alternative methods of compliance.

(c) This amendment becomes effective on October 16, 2006.

Issued in Fort Worth, Texas, on September 5, 2006.

David A. Downey,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 06–7577 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30512 ; Amendment No. 3183]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective September 11, 2006. The compliance date for each SIAP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 11, 2006.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Ave., SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The National Flight Procedures Office, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to Title 14, Code of Federal Regulations, part 97 (14 CFR part 97) amends Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260, as modified by the the National Flight Data Center (FDC)/Permanent Notice to Airmen (P–NOTAM), which is incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Code of Federal Regulations. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP as modified by FDC/P–NOTAMs.

The SIAPs, as modified by FDC P–NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, and Navigation (Air).

Issued in Washington, DC on August 25, 2006.

James J. Ballough,

Director, Flight Standards Service.

Adoption of the Amendment

■ Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, part 97, 14 CFR part 97, is amended by amending Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and §§ 97.35 COPTER SIAPs, Identified as follows:

** * * Effective upon publication*

FDC date	State	City	Airport	FDC No.	Subject
07/31/06	CO	PUEBLO	PUEBLO MEMORIAL	6/4530	GPS RWY 8L, ORIG IN TL 06–19 RESCINDED
08/02/06	NH	ROCHESTER	SKYHAVEN	6/4816	THIS NOTAM PUBLISHED IN TL06–19 IS HEREBY RESCINDED IN ITS' ENTIRETY. NDB OR GPS–B, AMDT 1B.
08/03/06	MT	KALISPELL	GLACIER PARK INTL	6/4881	RNAV (GPS) RWY 2, AMDT 1 IN TL 06–19 RESCINDED.
08/03/06	OR	REDMOND	ROBERTS FIELD	6/5901	RNAV (GPS) RWY 28, ORIG.
08/03/06	ID	DRIGGS	DRIGGS–REED MEMORIAL	6/5906	GPS A ORIG–B.
08/03/06	MT	MISSOULA	MISSOULA INTERNATIONAL	6/5907	GPS D ORIG.
08/03/06	MT	POLSON	POLSON	6/6415	RNAV (GPS) RWY 18, ORIG–A.
08/09/06	ME	PORTLAND	PORTLAND INTL JETPORT	6/5818	RNAV (GPS) RWY 11, AMDT 2.
08/09/06	NE	OMAHA	EPPLEY AIRFIELD	6/5833	ILS RWY 14R (CAT II), AMDT 3.
08/09/06	NE	OMAHA	EPPLEY AIRFIELD	6/5834	ILS RWY 14R (CAT III), AMDT 3.
08/09/06	NE	OMAHA	EPPLEY AIRFIELD	6/5836	ILS OR LOC RWY 32R, ORIG.
08/09/06	NE	OMAHA	EPPLEY AIRFIELD	6/5837	ILS RWY 32R (CAT II), ORIG.
08/09/06	NE	OMAHA	EPPLEY AIRFIELD	6/5838	ILS RWY 32R (CAT III), ORIG.
08/09/06	NE	OMAHA	EPPLEY AIRFIELD	6/5839	ILS RWY 14R, AMDT 3.
08/10/06	PA	PITTSBURGH	PITTSBURGH INTL	6/5873	RNAV (GPS) RWY 10C, AMDT 3.
08/11/06	NE	OMAHA	EPPLEY AIRFIELD	6/5967	ILS RWY 18, AMDT 7.
08/11/06	CA	CHICO	CHICO MUNI	6/5991	VOR/DME RWY 31R, ORIG–D.
08/11/06	CA	CHICO	CHICO MUNI	6/6003	GPS RWY 31R, ORIG–A.
08/11/06	NE	OMAHA	EPPLEY AIRFIELD	6/6016	ILS RWY 32L ORIG–A.
08/11/06	CA	CHICO	CHICO MUNI	6/6018	GPS RWY 31R, ORIG–A.
08/11/06	OK	LAWTON	LAWTON–FT SILL REGIONAL	6/6074	ILS RWY 35, AMDT 7B.
08/15/06	AK	ST. MARYS	ST. MARYS	6/6455	NDB RWY 35, ORIG–B.
08/15/06	MT	CONRAD	CONRAD	6/6487	NDB OR GPS RWY 24, AMDT 4.
08/15/06	GU	AGANA	GUAM INTL	6/6548	VOR/DME OR TACAN RWY 6L, ORIG–A.
08/15/06	GU	AGANA	GUAM INTL	6/6549	ILS OR LOC/DME RWY 6L, AMDT 3A.
08/15/06	GU	AGANA	GUAM INTL	6/6551	VOR–A, ORIG–A.
08/15/06	MA	GARDNER	GARDNER MUNI	6/6652	VOR OR GPS–A, AMDT 5.
08/15/06	ME	PRINCETON	PRINCETON MUNI	6/6653	RNAV (GPS) RWY 15, ORIG.
08/16/06	GA	COVINGTON	COVINGTON MUNI	6/6654	GPS RWY 28, ORIG–A.
08/16/06	SC	GREENVILLE	DONALDSON CENTER	6/6760	ILS RWY 5, AMDT 4B.
08/16/06	NC	ROCKINGHAM	RICHMOND COUNTY	6/6776	NDB RWY 31, AMDT 3.
08/16/06	NC	ROCKINGHAM	RICHMOND COUNTY	6/6777	GPS RWY 31, ORIG.
08/16/06	PA	PHILADELPHIA	PHILADELPHIA INTL	6/6655	ILS RWY 27L, AMDT 12A.
08/16/06	PA	SOMERSET	SOMERSET COUNTY	6/6659	LOC RWY 24, AMDT 3A.
08/16/06	PA	SOMERSET	SOMERSET COUNTY	6/6660	NDB RWY 24, AMDT 5A.
08/16/06	PA	SOMERSET	SOMERSET COUNTY	6/6661	GPS RWY 6, ORIG–A.
08/16/06	PA	SOMERSET	SOMERSET COUNTY	6/6662	GPS RWY 24, ORIG–A.
08/16/06	NY	NEW YORK	LA GUARDIA	6/6754	ILS OR LOC RWY 22, AMDT 19A.
08/16/06	NY	MONTAUK	MONTAUK	6/6756	RNAV (GPS) RWY 24, ORIG.
08/16/06	VT	RUTLAND	RUTLAND STATE	6/6757	VOR/DME RWY 1, ORIG–A.
08/16/06	NY	MASSENA	MASSENA INTL–RICHARDS FIELD	6/6856	ILS RWY 5, AMDT 2A.
08/16/06	NH	MANCHESTER	MANCHESTER	6/6867	VOR RWY 35, AMDT 15B.

FDC date	State	City	Airport	FDC No.	Subject
08/16/06	NH	MANCHESTER	MANCHESTER	6/6868	ILS OR LOC/DME RWY 17, ORIG.
08/16/06	MD	EASTON	EASTON/NEWNAM FIELD	6/6872	ILS OR LOC/DME RWY 4, ORIG.
08/16/06	NY	WESTHAMPTON BEACH.	FRANCIS S. GABRESKI	6/6881	COPTER ILS OR LOC RWY 24, AMDT 2.
08/16/06	NY	HUDSON	COLUMBIA COUNTY	6/6930	GPS RWY 21, ORIG–A.
08/16/06	NY	WESTHAMPTON BEACH.	FRANCIS S. GABRESKI	6/6931	ILS OR LOC RWY 24, AMDT 9.
08/16/06	WV	WHEELING	WHEELING OHIO COUNTY	6/6957	ILS RWY 3, AMDT 20A.
08/17/06	MS	GRENADA	GRENADA MUNI	6/6875	NDB RWY 13, AMDT 1A.
08/18/06	GA	ATLANTA	COBB COUNTY–MCCOLLUM FIELD	6/6939	ILS OR LOC RWY 27, AMDT 2.
08/18/06	GA	ATHENS	ATHENS/BEN EPPS	6/6940	VOR OR GPS RWY 2, AMDT 10A.
08/18/06	GA	ATHENS	ATHENS/BEN EPPS	6/6941	VOR RWY 27, AMDT 11A.
08/18/06	GA	MADISON	MADISON MUNI	6/6942	VOR/DME OR GPS A, AMDT 7.
08/18/06	GA	MADISON	MADISON MUNI	6/6944	GPS RWY 14, AMDT 1.
08/18/06	GA	WINDER	WINDER–BARROW	6/6945	LOC RWY 31, AMDT 8A.
08/18/06	GA	WINDER	WINDER–BARROW	6/6946	VOR/DME OR GPS A, AMDT 9A.
08/18/06	GA	WINDER	WINDER–BARROW	6/6947	NDB OR GPS RWY 31, AMDT 8A.
08/21/06	NC	NEW BERN	CRAVEN COUNTY REGIONAL	6/7175	ILS RWY 4, ORIG–A.
08/22/06	PA	ERIE	ERIE INTL/TOM RIDGE FIELD	6/7169	ILS RWY 24, AMDT 7B.
08/22/06	PA	KUTZTOWN	KUTZTOWN	6/7170	VOR–A, AMDT 1.
08/22/06	NE	OMAHA	MILLARD	6/7233	NDB RWY 12, AMDT 10B.
08/22/06	CT	HARTFORD	HARTFORD–BRAINARD	6/7249	LDA RWY 2, AMDT 1D.
08/22/06	KS	LAWRENCE	LAWRENCE MUNI	6/7250	ILS OR LOC RWY 33, AMDT 1.
08/22/06	KS	NEWTON	NEWTON–CITY–COUNTY	6/7254	ILS OR LOC RWY 17, AMDT 4.
08/22/06	KS	WINFIELD/ARKANSAS.	STROTHER FIELD	6/7308	ILS RWY 35, AMDT 4.
08/22/06	ND	JAMESTOWN	JAMESTOWN REGIONAL	6/7277	ILS RWY 31, AMDT 7B.
08/23/06	KS	TOPEKA	FORBES FIELD	6/7570	ILS RWY 31, AMDT 9A.
08/23/06	GA	ALBANY	SOUTHWEST GEORGIA REGIONAL	6/7471	ILS RWY 4, AMDT 10A.
08/23/06	WA	EPHRATA	EPHRATA MUNI	6/7512	VOR OR GPS RWY 20, AMDT 18A.
08/23/06	WA	EPHRATA	EPHRATA MUNI	6/7513	VOR/DME OR GPS RWY 2, AMDT 3A.

[FR Doc. E6–14737 Filed 9–8–06; 8:45 am]
BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD05–06–044]

RIN 1625–AA09

Drawbridge Operation Regulations; Broad Creek, Cedar Creek, and Nanticoke River, DE

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the drawbridge operation regulations of four Delaware Department of Transportation (DelDOT) bridges: the Poplar Street Bridge, at mile 8.2, and the U.S. 13A Bridge, at mile 8.2, both across Broad Creek in Laurel, DE; the SR 36 Bridge, at mile 0.5, over Cedar Creek in Cedar Beach; and SR 13 Bridge, at mile 39.6, across Nanticoke River in Seaford, DE. This final rule allows the bridges to open on signal if advance notice is given at different times from 4 to 48 hours. This change will eliminate the continual attendance of draw tender services during the non-peak boating periods while still providing for the reasonable needs of navigation.

DATES: This rule is effective October 11, 2006.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket CGD05–06–044 and are available for inspection or copying at Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 23704–5004 between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays. The Fifth Coast Guard District maintains the public docket for this rulemaking.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Regulatory History

On June 29, 2006, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulation; Broad Creek, Cedar Creek, and Nanticoke River, DE'' in the **Federal Register** (71 FR 37024). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

DelDOT, who owns and operates the Poplar Street Bridge and the U.S. 13A Bridge, at mile 8.2, both across Broad Creek in Laurel; the SR 36 Bridge, at mile 0.5, over Cedar Creek in Cedar Beach; and the SR 13 Bridge, at mile 39.6, across Nanticoke River in Seaford, requested advance notification for vessel openings and a reduction in draw tender services for the following explanations:

Broad Creek

In the closed-to-navigation position, the Poplar Street Bridge, mile 8.2, and the U.S. 13A Bridge, mile 8.2, both in Laurel, have vertical clearances of five feet and two feet, above mean high water, and eight feet and five feet, above mean low water, respectively. The existing operating regulations for these drawbridges are set out in 33 CFR 117.233, which requires the bridges, along with the Conrail Bridge (at mile 8.0) in Laurel, to open on signal if at least four hours notice is given.

DelDOT provided information to the Coast Guard about the conditions and reduced operational capabilities of the draw spans. Due to the infrequency of requests for vessel openings of the drawbridge for the past 10 years, the final rule changes the current operating regulations by requiring the draw spans

to open on signal if at least 48 hours notice is given year-round.

Cedar Creek

The SR 36 Bridge, at mile 0.5 in Cedar Beach, has a vertical clearance of two feet, above mean high water, and six feet, above mean low water, in the closed-to-navigation position. The existing regulation is listed at 33 CFR 117.5, which requires the bridge to open on signal.

Bridge opening data submitted by DelDOT revealed significantly fewer openings at certain hours of the night in the spring and summer months; and during the fall and winter months. The bridge logs also show the majority of drawbridge openings were performed year-round between the hours of 6 a.m. and 6:30 p.m. This final rule requires the draw to open on signal from April 1 through November 30, except from 2 a.m. to 4 a.m., when at least four hours notice must be given. From 6 a.m. to 6:30 p.m., from December 1 through March 31, the draw will open on signal. At all other times, the draw will open on signal if at least four hours notice is given.

These changes reduce bridge tender services required at the SR 36 Bridge due to the decrease in vessel opening requests.

Nanticoke River

The SR 13 Bridge, at mile 39.6, in Seaford has a vertical clearance of three feet, above mean high water and seven feet, above mean low water in the closed-to-navigation position. The existing regulation found at 33 CFR 117.5 requires the bridge to open on signal.

Bridge opening data submitted by DelDOT revealed significantly fewer openings between the hours of 8 a.m. and 6 p.m. in the spring and summer months; and on weekdays in the fall and winter months.

The final rule requires the draw to open on signal from 8 a.m. to 6 p.m. from April 1 through October 31; and at all other times, if at least four hours notice is given. From 7:30 a.m. to 3 p.m., from November 1 through March 31, on weekends (Saturdays and Sundays), the draw will open on signal; and at all other times, if at least four hours notice is given.

These changes reduce bridge tender services required at the SR 13 Bridge due to the decrease in vessel opening requests.

Discussion of Comments and Changes

The Coast Guard did not receive any comments on the NPRM. Therefore, no changes were made to the final rule.

Discussion of Rule

Broad Creek

The Coast Guard is revising 33 CFR 117.233, which governs the Conrail Bridge, mile 8.0, the Poplar Street bridge, mile 8.2 and the U.S. 13A bridge, mile 8.2, all in Laurel.

The current regulation is divided into paragraphs (a) and (b) by this final rule. New paragraph (a) contains the existing rule for the Conrail Bridge, mile 8.0, in Laurel and states that the draw shall open on signal if at least four hours notice is given.

Paragraph (b) contains the requirements for the Poplar Street Bridge, mile 8.2 and the U.S. 13A Bridge, mile 8.2, both in Laurel. The final rule requires the drawbridges to open on signal if at least 48 hours notice is given.

Cedar Creek

A new § 117.234, allows SR 36 Bridge, mile 0.5 in Cedar Beach, to open on signal from April 1 through November 30, except from 2 a.m. to 4 a.m., if at least four hours notice is given.

From December 1 through March 31, from 6 a.m. to 6:30 p.m., the draw will open on signal; and at all other times, if at least four hours notice is given.

Nanticoke River

In 33 CFR 117.243, this final rule redesignates paragraphs (a) through (c) as paragraph (a)(1) through (a)(3). The redesignated paragraph (a) contains the existing rules for the Norfolk Southern Railway Bridge, mile 39.4, at Seaford. The contact information for advance notice at the Norfolk Southern Railway Bridge is changed to the ''train dispatcher'' vice ''bridge tender.'' the telephone numbers are changed to (717) 215–0379 or (609) 412–4338.

The redesignated paragraph (b) contains the requirements for the SR 13 Bridge, mile 39.6, in Seaford. The final rule requires the draw to open on signal from 8 a.m. to 6 p.m. from April 1 through October 31; and at all other times, if at least four hours notice is given. From 7:30 a.m. to 3 p.m., from November 1 through March 31, on weekends (Saturdays and Sundays), the draw will open on signal; and at all other times, if at least four hours notice is given.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact that these changes have only a minimal impact on maritime traffic transiting the bridge. Mariners can plan their trips in accordance with the scheduled bridge openings, to minimize delays.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule would not have a significant economic impact on a substantial number of small entities for the following reason. The rule only adds minimal restrictions to the movement of navigation, and mariners who plan their transits in accordance with the scheduled bridge openings can minimize delay.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking process. No assistance was requested from any small entity.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed

this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (32)(e) of the Instruction, from further environmental documentation because it has been determined that the promulgation of operating regulations for drawbridges are categorically excluded.

List of Subjects in 33 CFR Part 117

Bridges.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; Department of Homeland Security Delegation No. 0170.1; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

■ 2. Revise § 117.233 to read as follows:

§ 117.233 Broad Creek.

(a) The draw of the Conrail Bridge, mile 8.0 at Laurel, shall open on signal if at least four hours notice is given.

(b) The draws of the Poplar Street Bridge, mile 8.2, and the U.S. 13A Bridge, mile 8.2, all at Laurel, shall open on signal if at least 48 hours notice is given.

■ 3. Add new § 117.234 to read as follows:

§ 117.234 Cedar Creek.

The SR 36 Bridge, mile 0.5 in Cedar Beach, shall open on signal. From April 1 through November 30 from 2 a.m. to 4 a.m.; and from December 1 through March 31 from 6:30 p.m. to 6 a.m., the draw shall open on signal if at least four hours notice is given.

■ 4. Revise § 117.243 to read as follows:

§ 117.243 Nanticoke River.

(a) The draw of the Norfolk Southern Railway Bridge, mile 39.4 in Seaford, will operate as follows:

(1) From March 15 through November 15, the draw will open on signal for all vessels except that from 11 p.m. to 5 a.m. at least 2½ hours notice will be required.

(2) At all times, from November 16 through March 14, the draw will open on signal if at least 2½ hours notice is given.

(3) When notice is required, the owner operator of the vessel must provide the train dispatcher with an estimated time of passage by calling (717) 215–0379 or (609) 412–4338.

(b) The draw of the SR 13 Bridge, mile 39.6 in Seaford, shall open on signal, except from 6 p.m. to 8 a.m., from April 1 through October 31; from November 1 through March 31, Monday to Friday, and on Saturday and Sunday from 3:30 p.m. to 7:30 a.m., if at least four hours notice is given.

Dated: August 25, 2006.

L.L. Hereth,

Rear Admiral, United States Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E6–14984 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–15–P

LIBRARY OF CONGRESS

Copyright Royalty Board

37 CFR Chapter III

[Docket No. RM 2005–1]

Procedural Regulations for the Copyright Royalty Board

AGENCY: Copyright Royalty Board, Library of Congress.

ACTION: Final rule with request for comments.

SUMMARY: The Copyright Royalty Judges, on behalf of the Copyright Royalty Board, are adopting amendments to the procedural regulations governing the practices and procedures of the Copyright Royalty Judges in royalty rate and distribution proceedings.

DATES: These rules become effective on September 11, 2006.

Written comments should be received no later than November 13, 2006.

ADDRESSES: If hand delivered by a private party, an original and five copies of comments must be brought to the Copyright Office Public Information Office in the James Madison Memorial Building, Room LM–430, 101 Independence Avenue, SE., Monday through Friday, between 8:30 a.m. and 5 p.m., and the envelope must be addressed as follows: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC 20559–6000. If delivered by a commercial courier (excluding overnight delivery services such as Federal Express, United Parcel Service and similar overnight delivery services), an original and five copies of comments must be delivered to the Congressional Courier Acceptance Site located at 2nd and D Street, NE., Monday through Friday, between 8:30 a.m. and 4 p.m., and the envelope must be addressed as follows: Copyright Royalty Board, Library of Congress, James Madison Memorial Building, 101 Independence Avenue, SE., Washington, DC 20559–6000. If sent by mail (including overnight delivery using United States Postal Service Express Mail), an original and five copies of comments must be addressed to: Copyright Royalty Board, P.O. Box 70977, Southwest Station, Washington, DC 20024–0977. Comments may not be delivered by means of overnight delivery services such as Federal Express, United Parcel Service, *etc.*, due to delays in processing receipt of such deliveries.

FOR FURTHER INFORMATION CONTACT: Gina Giuffreda, Attorney-Advisor, or Abioye E. Oyewole, CRB Program Specialist. Telephone (202) 707–7658. Telefax (202) 252–3423.

SUPPLEMENTARY INFORMATION: On November 30, 2004, the President signed into law the Copyright Royalty and Distribution Reform Act of 2004. Public Law 108–419, 118 Stat. 2341. The Act changed the body responsible for adjusting royalty rates and making royalty distributions under the various statutory licenses of the Copyright Act from the Copyright Arbitration Royalty Panels to the Copyright Royalty Judges. This change, along with others to the royalty rate and distribution process, required adoption of new procedural rules. This task was accomplished by the Interim Chief Copyright Royalty Judge who, pursuant to amended 17 U.S.C. 803(b)(6)(A) published procedural regulations on May 31, 2005. *See* 70 FR 30901 (May 31, 2005).

As part of the May 31, 2005 publication of regulations, comments from interested parties were sought. Initial comments were received from representatives of the Phase I copyright owner claimant groups that participate in section 111 and section 119 royalty rate and distribution proceedings (collectively, ''Copyright Owners''), the Local Radio Internet Coalition, the Intercollegiate Broadcasting System, the Digital Media Association (''DiMA''), and the Alliance of Artists and Recording Companies (''AARC''). Reply comments were received from SoundExchange, Inc., DiMA and the Local Radio Internet Coalition (jointly), Copyright Owners, and AARC.

After considering these submissions, the Copyright Royalty Judges, on behalf of the Copyright Royalty Board, adopt amendments to the procedural rules governing royalty rate and distribution proceedings. Interested parties are encouraged to comment on these amendments by the submission deadline set forth above.

List of Subjects

37 CFR Part 301

Copyright, Organization and functions (government agencies).

37 CFR Part 302

Copyright, Freedom of information, Reporting and recordkeeping requirements.

37 CFR Part 350

Administrative practice and procedure, Copyright, Lawyers.

37 CFR Part 351

Administrative practice and procedure, Copyright.

37 CFR Part 352

Administrative practice and procedure, Copyright.

37 CFR Part 353

Administrative practice and procedure, Copyright.

37 CFR Part 354

Administrative practice and procedure, Copyright.

37 CFR Part 360

Cable television, Claims, Copyright, Recordings, Satellites, Television.

Final Regulations

■ For the reasons set forth in the preamble, Chapter III of Title 37 of the Code of Federal Regulations is amended to read as follows:

PART 301—ORGANIZATION

■ 1. The authority citation for part 301 continues to read as follows:

Authority: 17 U.S.C. 801.

§ 301.2 [Amended]

■ 2. Section 301.2 is amended as follows:

■ a. In paragraph (b), by removing ''Room LM–401 of the'' and adding ''the Copyright Office Public Information Office, Room LM–401 in the'' in its place and by removing ''LM–401,'' after ''Building,''; and

■ b. In paragraph (c), by removing ''LM–403,''.

§ 301.3 [Removed]

■ 3. Remove § 301.3.

■ 4. Revise part 302 to read as follows:

PART 302—PUBLIC ACCESS TO RECORDS

Sec.
302.1 Public records and access.
302.2 Fees.

Authority: 5 U.S.C. 522.

§ 302.1 Public records and access.

(a) *Inspection.* Records of proceedings before the Board will be available for public inspection at the Copyright Royalty Board offices.

(b) *Requests.* Requests for access to records must be directed to the Copyright Royalty Board. No requests for information or access to records shall be directed to or accepted by a Copyright Royalty Judge. Access to records is only available by appointment.

§ 302.2 Fees.

For services rendered in connection with document location, reproduction, *etc.,* fees shall apply in accordance with § 201.3 of this title.

Subchapter B—Copyright Royalty Judges Rules and Procedures

■ 5. Revise heading of Subchapter B as set forth above.

PART 350—GENERAL ADMINISTRATIVE PROVISIONS

■ 6. The authority citation for part 350 continues to read as follows:

Authority: 17 U.S.C. 803.

§ 350.1 [Amended]

■ 7. Section 350.1 is amended by removing ''Board'' and adding ''Judges'' in its place.

■ 8. Revise § 350.2 to read as follows:

§ 350.2 Representation.

Individual parties in proceedings before the Judges may represent themselves or be represented by an attorney. All other parties must be represented by an attorney. Cf. Rule 49(c)(11) of the Rules of the District of Columbia Court of Appeals. The appearance of an attorney on behalf of any party constitutes a representation that the attorney is a member of the bar, in one or more states, in good standing.

§ 350.3 [Amended]

■ 9. Section 350.3 is amended by removing ''Board'' and adding ''Judges'' in its place.

■ 10. Section 350.4 is amended as follows:

■ a. By revising paragraph (a);

■ b. In paragraph (b), by removing ''Board'' and adding ''the Copyright Royalty Judges'' in its place;

■ c. By revising paragraph (e)(1);

■ d. In paragraph (e)(2), by removing ''address and telephone number.'' and adding ''full name, mailing address, e-mail address (if any), telephone number, and facsimile number (if any).'' in its place;

■ e. By removing paragraph (e)(3);

■ f. In paragraph (f), by removing ''seven'' and adding ''five'' in its place and by removing ''five'' and adding ''four'' in its place; and

■ g. In paragraph (g), by removing ''Board will compile'' and adding ''Judges will compile'' in its place, by removing ''by the Board,'' and adding ''by the Copyright Royalty Judges,'' in its place, and by removing ''notify the Board'' and adding ''notify the Copyright Royalty Judges'' in its place.

The revisions to § 350.4 read as follows:

§ 350.4 Filing and service.

(a) *Filing of pleadings.* For all filings, the submitting party shall deliver an original, five paper copies, and one electronic copy in Portable Document Format (PDF) on compact disk (an optical data storage medium such as a CD–ROM, CD–R or CD–RW) or floppy diskette to the Copyright Royalty Board in accordance with the provisions set forth in § 301.2 of this chapter. In no case shall a party tender any document by facsimile transmission, except with the prior express authorization of the Copyright Royalty Judges.

* * * * *

(e) *Subscription*—(1) *Parties represented by counsel.* The original of all documents filed by any party represented by counsel shall be signed by at least one attorney of record and shall list the attorney's full name, mailing address, e-mail address (if any), telephone number, facsimile number (if any), and a state bar identification number. Submissions signed by an attorney for a party need not be verified or accompanied by an affidavit. The signature of an attorney constitutes certification that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(i) It is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(ii) The claims, defenses, and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

* * * * *

■ 11. Section 350.5 is amended as follows:

■ a. In paragraph (a) introductory text, by removing ''Board'' and adding ''Judges'' in its place and by removing ''Board's'' and adding ''Copyright Royalty Judges''' in its place;

■ b. In paragraph (a)(3), by adding ''Copyright Royalty'' before ''Board's'';

■ c. In paragraph (a)(4), by adding ''the date designated for the observance of'' after ''means'';

■ d. By revising the introductory text of paragraph (b);

■ e. By revising paragraph (b)(4);

■ f. In paragraph (b)(5), by removing ''sought.'' and adding ''sought; and'' in its place; and

■ g. By adding a new paragraph (b)(6).

The additions and revisions to § 350.5 read as follows:

§ 350.5 Time.

* * * * *

(b) *Extensions.* A party seeking an extension must do so by written motion. Prior to filing such a motion, a party must attempt to obtain consent from the other parties to the proceeding. An extension motion must state:

* * * * *

(4) The reason or reasons why there is good cause for the delay;

* * * * *

(6) The attempts that have been made to obtain consent from the other parties to the proceeding and the position of the other parties on the motion.

§ 350.6 [Amended]

■ 12. Section 350.6 is amended by removing ''Board'' and adding ''Judges'' in its place.

PART 351—PROCEEDINGS

■ 13. The authority citation for part 351 continues to read as follows:

Authority: 17 U.S.C. 803, 805.

§ 351.1 [Amended]

■ 14. Section 351.1 is amended as follows:

■ a. In paragraph (a), by removing ''Board'' and adding ''Judges'' in its place;

■ b. In paragraph (b)(1)(i)(A), by adding ''and'' after ''(if any);'';

■ c. In paragraph (b)(1)(i)(B), by removing ''proceeding; and'' and adding ''proceeding.'' in its place;

■ d. By removing paragraph (b)(1)(i)(C);

■ e. In paragraph (b)(1)(ii)(C), by adding ''and'' after ''proceeding;''

■ f. By removing paragraph (b)(1)(ii)(D);

■ g. By redesignating paragraph (b)(1)(ii)(E) as paragraph (b)(1)(ii)(D);

■ h. In paragraph (b)(2)(i)(B), by adding ''and'' after ''both;'';

■ i. In paragraph (b)(2)(i)(C), by removing ''proceeding; and'' and adding ''proceeding.'' in its place;

■ j. By removing paragraph (b)(2)(i)(D);

■ k. In paragraph (b)(2)(ii)(D), by adding ''and'' after ''proceeding;'';

■ l. By removing paragraph (b)(2)(ii)(E);

■ m. By redesignating paragraph (b)(2)(ii)(F) as paragraph (b)(2)(ii)(E);

■ n. In paragraph (b)(4), by removing ''less than $10,000,'' and adding ''$10,000 or less,'' in its place and by removing ''Board'' and adding ''Copyright Royalty Judges'' in its place;

■ o. In paragraph (c), by removing ''Board unless'' and adding ''Judges unless'' in its place, by removing ''Board has determined that'' and adding ''Copyright Royalty Judges determine'', and by removing ''that the petition'' and adding ''the petition'' in its place; and

■ p. In paragraph (d), by removing ''Board'' and adding ''Judges'' in its place.

§ 351.2 [Amended]

■ 15. Section 351.2 is amended as follows:

■ a. In paragraph (a), by removing ''Within thirty-five business days from the date a proceeding is initiated by notice in the **Federal Register** pursuant to § 351.1(a), the Copyright Royalty Board'' and adding ''After the date for filing petitions to participate in a proceeding, the Copyright Royalty Judges'' in its place and by removing ''Board'' and adding ''Copyright Royalty Judges'' in its place;

■ b. In paragraph (b)(1), by removing ''To'' and adding ''Pursuant to 17 U.S.C. 801(b)(7)(A), to'' in its place, by removing ''or partial settlement'', and by removing ''a full or partial'' and adding ''the'' in its place; and

■ c. In paragraph (b)(2), by removing ''Board will'' and adding ''Judges, pursuant to 17 U.S.C. 801(b)(7)(A), will'' in its place, by removing ''The Board may'' and adding ''If an objection to the adoption of an agreement is filed, the Copyright Royalty Judges may'', and by removing ''Board concludes'' and adding ''Copyright Royalty Judges conclude'' in its place.

■ 16. Section 351.3 is amended as follows:

■ a. In paragraph (a), by removing ''Board'' each place it appears and adding ''Judges'' in its place and by removing ''§§ 351.4'' and adding ''§§ 351.5'' in its place;

■ b. In paragraph (b)(1), by removing ''Board'' and adding ''Judges'' in its place;

■ c. In paragraph (b)(2), by removing ''Board determines'' and adding ''Judges determine'' in its place and by removing ''Board shall'' and adding ''Judges shall'' in its place; and

■ d. By revising paragraph (c).

The revisions to § 351.3 read as follows:

§ 351.3 Controversy and further proceedings.

* * * * *

(c) *Paper proceedings*—(1) *Standard.* The procedure under this paragraph (c) will be applied in cases in which there is no genuine issue of material fact, there is no need for evidentiary hearings, and all participants in the proceeding agree in writing to the procedure. In the absence of an agreement in writing among all participants, this procedure may be applied by the Copyright Royalty Judges either on the motion of a party or by the Copyright Royalty Judges *sua sponte.*

(2) *Procedure.* Paper proceedings will be decided on the basis of the filing of the written direct statement by the participant (or participant group filing a joint petition), the response by any opposing participant, and one optional reply by a participant who has filed a written direct statement.

■ 17. Section 351.4 is amended as follows:

■ a. In paragraph (a), by removing ''Board'' and adding ''Judges'' in its place;

■ b. By revising the heading to paragraph (b);

■ c. In paragraph (b)(2), by revising the paragraph heading, by removing ''designated testimony'' and adding ''past records and/or testimony'' in its place, and by removing ''of that testimony''; and

■ d. By removing paragraph (b)(4).

The revisions to § 351.4 read as follows:

§ 351.4 Written direct statements.

* * * * *

(b) *Required content.*

* * * * *

(2) *Designated past records and testimony.* * * *

* * * * *

■ 18. Section 351.5 is revised to read as follows:

§ 351.5 Discovery in royalty rate proceedings.

(a) *Schedule.* Following the submission to the Copyright Royalty Judges of written direct and rebuttal statements by the participants in a royalty rate proceeding, and after conferring with the participants, the Copyright Royalty Judges will issue a discovery schedule.

(b) *Document production, depositions and interrogatories*— (1) *Document production.* A participant in a royalty rate proceeding may request of an opposing participant nonprivileged documents that are directly related to the written direct statement or written rebuttal statement of that participant. Broad, nonspecific discovery requests are not acceptable. All documents offered in response to a discovery request must be furnished in as organized and useable form as possible. Any objection to a request for production shall be resolved by a motion or request to compel production. The motion must include a statement that the parties had conferred and were unable to resolve the matter.

(2) *Depositions and interrogatories.* In a proceeding to determine royalty rates, the participants entitled to receive royalties shall collectively be permitted to take no more than 10 depositions and secure responses to no more than 25 interrogatories. Similarly, the participants obligated to pay royalties shall collectively be permitted to take no more than 10 depositions and secure responses to no more than 25 interrogatories. Parties may obtain such discovery regarding any matter, not privileged, that is relevant to the claim or defense of any party. Relevant information need not be admissible at hearing if the discovery by means of depositions and interrogatories appears reasonably calculated to lead to the discovery of admissible evidence.

(c) *Motions to request other relevant information and materials.* (1) In any royalty rate proceeding scheduled to commence prior to January 1, 2011, a participant may, by means of written or oral motion on the record, request of an opposing participant or witness other relevant information and materials. The Copyright Royalty Judges will allow such request only if they determine that, absent the discovery sought, their ability to achieve a just resolution of the proceeding would be substantially impaired.

(2) In determining whether such discovery motions will be granted, the Copyright Royalty Judges may consider—

(i) Whether the burden or expense of producing the requested information or materials outweighs the likely benefit, taking into account the needs and resources of the participants, the importance of the issues at stake, and the probative value of the requested information or materials in resolving such issues;

(ii) Whether the requested information or materials would be unreasonably cumulative or duplicative, or are obtainable from another source that is more convenient, less burdensome, or less expensive; and

(iii) Whether the participant seeking the discovery had an ample opportunity by discovery in the proceeding or by other means to obtain the information sought.

■ 19. Section 351.6 is revised to read as follows:

§ 351.6 Discovery in distribution proceedings.

In distribution proceedings, the Copyright Royalty Judges shall designate a 45-day period beginning with the filing of written direct statements within which parties may request of an opposing party nonprivileged underlying documents related to the written exhibits and testimony. However, all parties shall be given a reasonable opportunity to conduct discovery on amended statements.

§ 351.7 [Amended]

■ 20. Section 351.7 is amended by removing ''21-days'' and adding ''21 days'' in its place, by removing ''Board'' each place it appears and adding ''Judges'' in its place, and by adding ''written'' before ''Joint''.

§ 351.8 [Amended]

■ 21. Section 351.8 is amended by removing ''Board'' each place it appears and adding ''Copyright Royalty Judges'' in its place and by removing ''hearing.'' and adding ''hearing and to provide for the submission of pre-hearing written legal arguments.'' in its place.

■ 22. Section 351.9 is amended as follows:

■ a. By revising paragraph (a);

■ b. By revising the introductory text of paragraph (b);

■ c. By removing paragraph (b)(1);

■ d. By redesignating paragraphs (b)(2) and (b)(3) as paragraphs (b)(1) and (b)(2), respectively;

■ e. In newly redesignated paragraph (b)(2), by removing ''Board's'' and adding ''Copyright Royalty Judges' '' in its place and by removing ''whether there are an even number of Judges sitting at the hearing,'';

■ f. By removing paragraphs (b)(4) and (b)(5); and

■ g. By adding new paragraphs (d) through (f).

The additions and revisions to § 351.9 read as follows:

§ 351.9 Conduct of hearings.

(a) *By panels*. Subject to paragraph (b) of this section, hearings will be conducted by Copyright Royalty Judges sitting *en banc*.

(b) *Role of Chief Judge*. The Chief Copyright Royalty Judge, or an individual Copyright Royalty Judge designated by the Chief Judge, may preside over such collateral and administrative proceedings, and over such proceedings under section 803(b)(1) through (5) of the Copyright Act, as the Chief Judge considers appropriate. The Chief Judge, or an individual Copyright Royalty Judge designated by the Chief Judge, shall have the responsibility for:

* * * * *

(d) *Notice of witnesses and prior exchange of exhibits*. Each party must provide all other parties notice of the witnesses who are to be called to testify at least one week in advance of such testimony, unless modified by applicable trial order. Parties must exchange exhibits at least one day in advance of being offered into evidence at a hearing, unless modified by applicable trial order.

(e) *Subpoenas*. The parties may move the Copyright Royalty Judges to issue a subpoena. The object of the subpoena shall be served with the motion and may appear in response to the motion.

(f) *Witnesses sequestered*. Subject to applicable trial order, witnesses, other than party representatives, may not be permitted to listen to any testimony and may not be allowed to review a transcript of any prior testimony.

■ 23. Section 351.10 is amended as follows:

■ a. By revising paragraph (a);

■ b. In paragraph (b), by removing ''written direct statement'' and adding ''written statements'' in its place and by removing ''Board'' and adding ''Copyright Royalty Judges'' in its place;

■ c. By revising paragraph (c)(1);

■ d. In paragraph (c)(2), by removing ''a document'' and adding ''an exhibit'' in its place;

■ e. By revising paragraph (c)(3);

■ f. By revising paragraph (d);

■ g. By revising the introductory text to paragraph (e);

■ h. By removing paragraph (e)(1); and

■ i. By revising paragraphs (f) and (g).

The revisions to § 351.10 read as follows:

§ 351.10 Evidence.

(a) *Admissibility*. All evidence that is relevant and not unduly repetitious or privileged, shall be admissible. Hearsay may be admitted to the extent deemed appropriate by the Copyright Royalty Judges. Written testimony and exhibits must be authenticated or identified in order to be admissible as evidence. The requirement of authentication or identification as a condition precedent to admissibility is satisfied by evidence sufficient to support a finding that the matter in question is what its proponent claims. Extrinsic evidence of authenticity as a condition precedent to admissibility is not required with respect to materials that can be self-authenticated under Rule 902 of the Federal Rules of Evidence such as certain public records. No evidence, including exhibits, may be submitted without a sponsoring witness, except for good cause shown.

* * * * *

(c) *Exhibits*—(1) *Submission*. Writings, recordings and photographs shall be presented as exhibits and marked by the presenting party. ''Writings'' and ''recordings'' consist of letters, words, or numbers, or their equivalent, set down by handwriting, typewriting, printing, photostating, photographing, magnetic impulse, mechanical or electronic recording, or other form of data compilation. ''Photographs'' include still photographs, video tapes, and motion pictures.

* * * * *

(3) *Summary exhibits*. The contents of voluminous writings, recordings, or photographs which cannot conveniently be examined in the hearing may be presented in the form of a chart, summary, or calculation. The originals, or duplicates, shall be made available for examination or copying, or both, by other parties at a reasonable time and place. The Copyright Royalty Judges may order that they be produced in the hearing.

(d) *Copies*. Anyone presenting exhibits as evidence must present copies to all other participants in the proceedings, or their attorneys, and afford them an opportunity to examine the exhibits in their entirety and offer into evidence any other portion that may be considered material and relevant.

(e) *Introduction of studies and analyses*. If studies or analyses are offered in evidence, they shall state clearly the study plan, the principles and methods underlying the study, all relevant assumptions, all variables considered in the analysis, the techniques of data collection, the techniques of estimation and testing, and the results of the study's actual estimates and tests presented in a format commonly accepted within the relevant field of expertise implicated by the study. The facts and judgments upon which conclusions are based shall be stated clearly, together with any alternative courses of action considered. Summarized descriptions of input data, tabulations of input data and the input data themselves shall be retained.

(f) *Objections*. Parties are entitled to raise objections to evidence on any proper ground during the course of the hearing and to raise an objection that an opposing party has not furnished unprivileged underlying documents.

(g) *New exhibits for use in cross-examination*. Exhibits that have not been identified and exchanged in advance may be shown to a witness on cross-examination. However, copies of such exhibits must be distributed to the Copyright Royalty Judges and to the other participants before being shown to the witness at the time of cross-examination, unless the Copyright Royalty Judges direct otherwise. Such exhibits can be used solely to impeach the witness's direct testimony.

§ 351.11 [Amended]

■ 24. Section 351.11 is amended by removing ''Board upon'' and adding

''Judges upon'' in its place and by removing ''by the Board.'' and adding ''by the Copyright Royalty Judges.'' in its place.

§ 351.12 [Removed]

■ 25. Remove § 351.12.

§ 351.13 through § 351.15 [Redesignated as § 351.12 through § 351.14]

■ 26. Redesignate § 351.13 through § 351.15 as § 351.12 through § 351.14, respectively, and revise the newly redesignated § 351.12 through § 351.14 to read as follows:

§ 351.12 Closing the record.

To close the record of a proceeding, the presiding Judge shall make an announcement that the taking of evidence has concluded.

§ 351.13 Transcript and record.

(a) An official reporter for the recording and transcribing of hearings shall be designated by the Copyright Royalty Judges. Anyone wishing to inspect the transcript of a hearing may do so at the offices of the Copyright Royalty Board.

(b) The transcript of testimony and written statements, except those portions to which an objection has been sustained, and all exhibits, documents and other items admitted in the course of a proceeding shall constitute the official written record. The written record, along with the Copyright Royalty Judges' final determination, shall be available at the Copyright Royalty Board's offices for public inspection and copying.

§ 351.14 Proposed findings of fact and conclusions of law.

(a) Any party to the proceeding may file proposed findings of fact and conclusions, briefs or memoranda of law, or may be directed by the Copyright Royalty Judges to do so. Such filings, and any replies to them, shall take place after the record has been closed.

(b) Failure to file when directed to do so shall be considered a waiver of the right to participate further in the proceeding unless good cause for the failure is shown. A party waives any objection to a provision in the determination unless the provision conflicts with a proposed finding of fact or conclusion of law filed by the party.

(c) Proposed findings of fact shall be numbered by paragraph and include all basic evidentiary facts developed on the record used to support proposed conclusions, and shall contain appropriate citations to the record for each evidentiary fact. Proposed conclusions shall be stated and numbered by paragraph separately. Failure to comply with this paragraph (c) may result in the offending paragraph being stricken.

PART 352—DETERMINATIONS

■ 27. The authority citation for part 352 continues to read as follows:

Authority: 17 U.S.C. 803.

§ 352.1 [Amended]

■ 28. Section 352.1 is amended by removing ''of the Board'' after ''determinations'' and by removing ''by the Board'' after ''determination''.

§ 352.2 [Amended]

■ 29. Section 352.2 is amended by removing ''Board'' and adding ''Judges'' in its place, by removing ''its'' and adding ''their'' in its place, and by adding ''The date the determination is ''issued'' refers to the date of the order.'' after ''first occurs.''

■ 30. Section 352.3 is revised to read as follows:

§ 352.3 Final determinations.

Unless a motion for a rehearing is timely filed within 15 days, the determination by the Copyright Royalty Judges pursuant to 17 U.S.C. 803(c) in a proceeding is final when it is issued.

PART 353—REHEARING

■ 31. The authority citation for part 353 continues to read as follows:

Authority: 17 U.S.C. 803.

■ 32. Section 353.1 is revised to read as follows:

§ 353.1 When granted.

A motion for rehearing may be filed by any participant in the relevant proceeding. The Copyright Royalty Judges may grant rehearing upon a showing that any aspect of the determination may be erroneous.

§ 353.3 [Amended]

■ 33. Section 353.3 is amended by removing ''Board'' each place it appears and adding ''Judges'' in its place and by removing ''order either denying the motion or ordering further proceedings'' and adding ''appropriate order'' in its place.

■ 34. Section 353.4 is revised to read as follows:

§ 353.4 Filing deadline.

A motion for rehearing must be filed within 15 days after the date on which the Copyright Royalty Judges issue an initial determination.

§ 353.5 [Amended]

■ 35. Section 353.5 is amended by removing ''Board'' and adding ''Judges'' in its place and by removing ''However, participants should be aware that nonparticipation'' and adding ''Nonparticipation'' in its place.

PART 354—SUBMISSIONS TO THE REGISTER OF COPYRIGHTS

■ 36. The authority citation for part 354 continues to read as follows:

Authority: 17 U.S.C. 802

■ 37. Section 354.1 is revised to read as follows:

§ 354.1 Material questions of copyright law.

(a) *Discretionary referrals.* The Copyright Royalty Judges may seek guidance from the Register of Copyrights with respect to a material question of substantive law, concerning an interpretation or construction of those provisions of the Copyright Act, that arises in the course of their proceedings.

(b) *How presented.* A question of substantive law may be referred to the Register of Copyrights at the request of one or more of the Copyright Royalty Judges. A question of substantive law may also be referred to the Register of Copyrights as a request submitted by motion of a participant, provided that one or more of the Copyright Royalty Judges agrees with the participant's request.

(1) *Referral by Judges.* One or more of the Copyright Royalty Judges may refer what he or she believes to be a material question of substantive law to the Register of Copyrights at any time during a proceeding by issuing a written referral that is made part of the record of that proceeding. The referral will state the issue(s) to be referred and the schedule for the filing of briefs by the parties of the issue(s). After the briefs and other relevant materials are received, they will be transmitted to the Register of Copyrights.

(2) *Motion by participant.* Any participant may submit a motion to the Copyright Royalty Judges (but not to the Register of Copyrights) requesting their referral to the Register of Copyrights a question that the participant believes would be suitable for referral under paragraph (a) of this section.

(i) *Content.* The motion should be captioned ''Motion of [Participant(s)] Requesting Referral of Material Question of Substantive Law.'' The motion should set forth, at the outset, the precise legal question for which the moving party is seeking interlocutory referral to the

Register of Copyrights. The motion should then proceed to explain, with brevity, why the issue meets the criteria for potential referral under paragraph (a) of this section and why the interests of fair and efficient adjudication would be best served by obtaining interlocutory guidance from the Register of Copyrights. The motion should not include argument on the merits of the issue, but may include a suggested schedule of briefing that would make reasonable provision for comments and legal arguments, in such a way as to avoid delay and duplication.

(ii) *Time of motion.* A motion for referral of a material question of substantive law to the Register of Copyrights should be filed as soon as possible in the relevant proceeding, but no later than any deadline set by the Copyright Royalty Judges.

(iii) *Action on motion*—(A) *Referral granted.* Upon consideration of a Motion Requesting Referral of Material Question of Substantive Law, if one or more of the Copyright Royalty Judges agrees with the request, the Chief Judge shall issue an appropriate referral. The referral will state the issue(s) to be referred and the schedule for the filing of briefs by the parties of the issue(s). After the briefs and other relevant materials are received, they will be transmitted to the Register of Copyrights.

(B) *Referral denied.* If none of the Copyright Royalty Judges agrees with the request, the Board will issue an order denying the request which will provide the basis for the decision. A copy of any order denying a Motion Requesting Referral of Material Question of Substantive Law will be transmitted to the Register of Copyrights.

(c) *No effect on proceedings.* The issuance of a request to the Register of Copyrights for an interpretive ruling under this part does not delay or otherwise affect the schedule of the participants' obligations in the relevant ongoing proceeding, unless that schedule or those obligations are expressly changed by order of the Copyright Royalty Judges.

(d) *Binding effect; time limit.* The Copyright Royalty Judges will not issue a final determination in a proceeding where the discretionary referral of a question to the Register of Copyrights under this part is pending, unless the Register has not delivered the decision to the Copyright Royalty Judges within 14 days after the Register receives all of the briefs of the participants. If the decision of the Register of Copyrights is timely delivered to the Copyright Royalty Judges, the decision will be included in the record of the proceeding. The legal interpretation embodied in the timely delivered response of the Register of Copyrights in resolving material questions of substantive law is binding upon the Copyright Royalty Judges and will be applied by them in their final determination in the relevant proceeding.

§ 354.2 [Amended]

■ 38. Section 354.2 is amended as follows:

■ a. In paragraph (a), by removing ''Board'' each place it appears and adding ''Judges'' in its place; and

■ b. In paragraph (b), by removing ''Board'' each place it appears and adding ''Judges'' in its place and by adding ''The legal interpretation embodied in the timely delivered response of the Register of Copyrights in resolving material questions of substantive law is binding upon the Copyright Royalty Judges and will be applied by them in their final determination in the relevant proceeding.'' after ''expired.''.

§ 354.3 [Amended]

■ 39. Section 354.3 is amended by removing ''Board'' each place it appears and adding ''Judges'' in its place.

§ 354.4 through 354.5 [Removed]

■ 40. Remove § 354.4 through § 354.5.

Subchapter C—Submission of Royalty Claims

■ 41. Add a new Subchapter C as set forth above and redesignate Part 360 from Subchapter B to Subchapter C.

PART 360—FILING OF CLAIMS TO ROYALTY FEES COLLECTED UNDER COMPULSORY LICENSE

■ 42. The authority citation for part 360 continues to read in part as follows:

Authority: 17 U.S.C. 801, 803, 805.

* * * * *

§ 360.4 [Amended]

■ 43. Section 360.4 is amended as follows:

■ a. In paragraph (a)(2), by adding ''Copyright Office'' before ''Public Information Office'' each place it appears, by removing ''located at the U.S. Copyright Office,'' and adding ''in the'' in its place, and by removing ''LM–401,'' after ''Building,''; and

■ b. In paragraph (a)(3), by removing ''LM–403,''.

§ 360.13 [Amended]

■ 44. Section 360.13 is amended as follows:

■ a. In paragraph (a)(2), by adding ''Copyright Office'' before ''Public Information Office'' each place it appears, by removing ''located at the U.S. Copyright Office,'' and adding ''in the'' in its place, and by removing ''LM–401,'' after ''Building,''; and

■ b. In paragraph (a)(3), by removing ''LM–403,''.

§ 360.24 [Amended]

■ 45. Section 360.24 is amended as follows:

■ a. In paragraph (a)(2), by adding ''Copyright Office'' before ''Public Information Office'' each place it appears, by removing ''located at the U.S. Copyright Office,'' and adding ''in the'' in its place, and by removing ''LM–401,'' after ''Building,''; and

■ b. In paragraph (a)(3), by removing ''LM–403,''.

Dated: August 29, 2006.

James Scott Sledge,

Chief Copyright Royalty Judge, Copyright Royalty Board.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. E6–14893 Filed 9–8–06; 8:45 am]

BILLING CODE 1410–72–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 355

[EPA–HQ–SFUND–2005–0520; FRL–8217–4]

RIN 2050–AG32

Reportable Quantity Adjustment for Isophorone Diisocyanate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking direct final action to adjust the reportable quantity (RQ) for Isophorone Diisocyanate (IPDI). Reportable quantities for many Extremely Hazardous Substances (EHS) under the Emergency Planning and Community Right-to-Know Act (EPCRA) were adjusted to their threshold planning quantities (TPQ) in a final rule on May 7, 1996. On September 8, 2003, EPA modified the TPQ for IPDI to 500 pounds.

However, EPA inadvertently omitted an RQ adjustment for this substance. Therefore, EPA is now adjusting the RQ for IPDI to be 500 pounds.

DATES: This final rule is effective on November 13, 2006, unless EPA receives adverse comments by October 11, 2006.

If adverse comment is received, EPA will publish a timely withdrawal of this direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–SFUND–2005–0520. All documents in the docket are listed on the *www.regulations.gov* website. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Superfund Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Superfund Docket is (202) 566–0276. Note: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at *http://www.epa.gov/epahome/dockets.htm* for current information on docket operations, locations and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to *www.regulations.gov* are not affected by the flooding and will remain the same.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW.; telephone number: (202) 564–8019; fax number: (202) 564–2620; e-mail address: *jacob.sicy@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA is publishing this rule without prior proposal because we view the RQ adjustment for IPDI as non-controversial. We anticipate no adverse comments since this adjustment is consistent with the approach we used in the May 7, 1996 final rule for setting RQs for other EHSs. We believe conforming the RQ to the TPQ will have no impact on human health and the environment since the TPQ methodology as explained in both the interim final rule (November 17, 1986, 51 FR 41570) and the final rule (April 22, 1987, 52 FR 13378) is based on the possibility of harm from release.

This direct final rule will be effective on November 13, 2006 without further notice, unless we receive adverse comment by October 11, 2006. In the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate document that will serve as the proposal to adjust the RQ for IPDI, if adverse comments are filed. If EPA receives adverse comment on this chemical-specific RQ adjustment, we will publish a timely withdrawal in the **federal Register** and will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on this action must do so at this time.

I. What Is the Authority for This Action?

Section 328 of the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 authorizes the Administrator to issue regulations to carry out the statute, including EPCRA section 304.

II. What Is the General Background for This Action?

The Emergency Planning and Community Right-to-Know Act (EPCRA) was established to encourage state and local planning and preparedness for spills or releases of Extremely Hazardous Substances (EHSs) and to provide the public and local governments with information concerning chemical releases and the potential chemical risks in their communities. EPCRA contains provisions requiring facilities to report the presence, use and releases of EHSs (described in sections 302 and 304) and hazardous and toxic chemicals (described in sections 311, 312, and 313 respectively). The implementing regulations for these statutory requirements are codified in 40 CFR parts 355, 370 and 372.

Section 302 of EPCRA directs EPA to publish the list of EHSs and their threshold planning quantities (TPQs). EPA published a final rule with the list of EHSs and their TPQs on April 22, 1987 (52 FR 13378). The list of EHS is defined in section 302(a)(2) as the ''list of substances published in November, 1985 by the Administrator in Appendix A of the Chemical Emergency Preparedness Program Interim Guidance.'' This list was established by EPA to identity chemical substances which could cause serious irreversible health effects from accidental releases (52 FR 13378). Under section 302, a facility which has present an EHS in excess of its TPQ must notify its state emergency response commission (SERC) and work with the local emergency planning committee (LEPC) on emergency planning activities.

Section 304 of EPCRA requires immediate reporting of certain releases of EHSs and hazardous substances listed under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) to SERCs and LEPCs, similar to the release reporting provisions of CERCLA section 103. A facility is required to notify the SERC and the LEPC if the release of an EHS or hazardous substance occurs at or above the reportable quantity (RQ). In the 1987 **Federal Register** notice, EPA also published the RQs for EHSs. Many of the EHSs are also listed as CERCLA hazardous substances and their RQs are established under CERCLA.

CERCLA section 103 requires facilities to notify the national response center of any release of a hazardous substance in an amount equal to or in excess of its RQ. EPCRA section 304 notification is in addition to the CERCLA section 103 notification. Although similar, the purpose of both reporting requirements is somewhat different. Information derived from CERCLA section 103 can be used for Federal planning and coordination of response entities and for federal contingency plans. EPCRA reporting generally is designed to enhance local and state emergency response capability to protect the public in the event of dangerous chemical releases. The potential hazards posed by EHSs make state and local notification critical to effective and timely emergency response in the community.

EPCRA section 304(a) provides that chemicals on the EHS list which do not have an RQ assigned to them by regulation will have a reportable quantity of l pound. Certain EHSs (*i.e.*, those that are not also CERCLA hazardous substances with RQs assigned under CERCLA) were assigned the statutory RQ of one pound in the April, 1987 final rule. On August 30, 1989 (54 FR 35988), EPA proposed to revise the RQs for these EHSs. In a final rule published on May 7, 1996, (61 FR 20473), EPA raised the statutory reportable quantities for these EHSs, assigning the RQ for each hazardous substance to be the same as their TPQs.

In the May, 1996 final rule, EPA used the TPQ methodology to adjust the RQs (see 61 FR 20473). As explained in that rulemaking, the Agency believes EHS RQs should be based on a hazardous substance's potential for immediate effects; this approach reflects the fact that EPCRA reporting of EHS releases is required because EHSs are acutely toxic and can potentially pose an immediate hazard upon release. The TPQ methodology, designed specifically for EHSs, is based on such effects, utilizing a ''level of concern'' based upon short-term exposure concentrations that could lead to serious irreversible health effects. Where the TPQ for an EHS (that is not a CERCLA hazardous substance) represents a quantity that could cause serious health consequences if an accident were to occur with that quantity, the Agency believes it is appropriate to set the RQs for that EHS using a consistent risk-based approach. In this manner, the Agency can harmonize EHS reporting requirements for purposes of EPCRA section 302 (using TPQs) and EPCRA section 304 (using RQs).

III. What Is the Revision in This Action?

On September 8, 2003 (68 FR 52978), EPA modified the TPQ for Isophorone Diisocyanate (IPDI) (CAS No. 4098–71–9) to 500 pounds. IPDI was one of the EHSs RQ that was adjusted using the TPQ methodology. When the TPQ for IPDI was modified in September 2003, EPA inadvertently did not make a corresponding RQ adjustment for IPDI. Currently, the RQ for this chemical is set at 100 pounds.

The RQ should have been changed to be consistent with the adjusted TPQ, which is 500 pounds. Therefore, consistent with the approach described in the May, 1996 final rule, EPA is amending the rules to ensure the RQ for this chemical is the same as its TPQ.

IV. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO.

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Rather, it reduces burden on those facilities that may have an accidental release of this chemical below 500 pounds. OMB has previously approved the information collection requirements contained in the existing regulations, 40 CFR part 355, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050–0092, EPA ICR No. 1395.06. A copy of the OMB approved Information Collection Request (ICR) may be obtained from Susan Auby, Collection Strategies Division; U. S. Environmental Protection Agency (2822T); 1200 Pennsylvania Avenue., NW., Washington, DC 20460 or by calling (202) 566–1672.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of today's rule on small entities, a small entity is defined by the Small Business Administration by category of business using North American Industrial Classification System (NAICS) and codified at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's direct final rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant *adverse* economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This action does not have any significant economic impact on small entities. This action is intended to reduce burden on facilities that may have an accidental release of Isophorone Diisocyanate below 500 pounds. We have therefore concluded that today's direct final rule will relieve regulatory burden for all affected small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year.

Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law.

Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted.

Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this action contains no regulatory requirements that might significantly or uniquely affect small governments. As explained above, this action would reduce burden on those facilities that may have accidental releases of Isophorone Diisocyanate in small quantities. Therefore, we have determined that today's rule is not subject to the requirements of sections 202, 203 or 205 of UMRA.

E. Executive Order 13132: Federalism

Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999), requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.''

This action does not have federalism implications. It would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action would not preempt State law or regulations. Thus, Executive Order 13132 does not apply to this rule.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249), November 9, 2000, requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This action does not have tribal implications, as specified in Executive Order 13175.

This action is intended to reduce burden on regulated entities that may have releases of this chemical in small quantities. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045: Protection of Children From Environmental Health and Safety Risks

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866; and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children.

H. Executive Order 13211: Actions that Significantly Affect Energy Supply, Distribution, or Use

This action is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards such as materials specifications, test methods, sampling procedures, and business practices that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This action does not involve technical standards. Therefore, NTTAA does not apply.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 355

Environmental Protection, Chemicals, Hazardous Substances, Extremely Hazardous Substances, Reportable Quantities.

Dated: August 31, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons set out in the preamble, part 355 of title 40 of the Code of Federal Regulations is amended as follows:

PART 355—EMERGENCY PLANNING AND NOTIFICATION

■ 1. The authority citation for part 355 continues to read as follows:

Authority: 42 U.S.C. 11002, 11004, and 11048.

Appendix A—[Amended]

■ 2. In Appendix A, the table is amended by revising the entry for CAS No.''4098–71–9'' (chemical name—Isophorone Diisocyanate) to read as follows:

Appendix A to Part 355—The List of Extremely Hazardous Substances and Their Threshold Planning Quantities

[ALPHABETICAL ORDER]

CAS No.	Chemical name	Notes	Reportable quantity (pounds)	Threshold planning quantity (pounds)
*	*	*	*	*
4098–71–9	Isophorone Diisocyanate		500	500
*	*	*	*	*

■ 3. In Appendix B, the table is amended by revising the entry for CAS No. ''4098–71–9'' (chemical name—Isophorone Diisocyanate) to read as follows:

Appendix B to Part 355—The List of Extremely Hazardous Substances and Their Threshold Planning Quantities

[CAS NO. ORDER]

CAS No.	Chemical name	Notes	Reportable quantity (pounds)	Threshold planning quantity (pounds)
*	*	*	*	*
4098–71–9	Isophorone Diisocyanate		500	500
*	*	*	*	*

[FR Doc. E6–14849 Filed 9–8–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 710

[EPA–HQ–OPPT–2006–0691; FRL–8088–5]

2006 Reporting Notice; Partial Update of Inventory Database; Chemical Substance Production, Processing, and Use Site Reports

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of 2006 reporting period.

SUMMARY: This document announces the 2006 reporting period for Inventory Update Reporting (IUR) under the Toxic Substances Control Act (TSCA). The IUR rule requires manufacturers and importers of certain chemical substances included on the TSCA Chemical Substances Inventory to report current data on the manufacturing, processing, and use of the substances. The 2006 reporting period is from August 25, 2006 to December 23, 2006. This is the first reporting period since the original inventory in which manufacturers and importers of inorganic chemical substances as well as manufacturers and importers of organic chemical substances are required to report. Also, the 2006 reporting period is the first to require reporting of processing and use information for certain chemical substances manufactured in volumes of 300,000 pounds or more at a site in addition to manufacturing information. While information can continue to be submitted through the mail or other delivery service, the Agency strongly encourages reporting through the Internet using EPA's Central Data Exchange (CDX).

DATES: The 2006 reporting period is from August 25, 2006 to December 23, 2006.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Colby Lintner, Regulatory Coordinator, Environmental Assistance Division (7408M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 554–1404; email address:*TSCA-Hotline@epa.gov*.

For technical information contact: Susan Sharkey, Project Manager, Economics, Exposure and Technology Division (7406M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (202) 564–8789; e-mail address: *sharkey.susan@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

You may be affected by this action if you manufacture (defined by statute at 15 U.S.C. 2602(7) to include import) chemical substances, including inorganic chemical substances, subject to reporting under the Inventory Update Reporting (IUR) regulations at 40 CFR part 710, subpart C. Any use of the term ''manufacture'' in this document will encompass import, unless otherwise stated.

Potentially affected entities may include, but are not limited to:

- Chemical manufacturers and importers, including chemical manufacturers and importers of inorganic chemical substances (NAICS codes 325, 32411).

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this unit could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions at 40 CFR 710.48. If you have any questions regarding the applicability of this action to a particular entity, consult the technical contact person listed

under **FOR FURTHER INFORMATION CONTACT**.

B. How Can I Get Copies of this Document and Other Related Documents?

You may access this **Federal Register** document electronically through the EPA Internet under the **Federal Register** listings at*http://www.epa.gov/fedrgstr*. Copies of TSCA Regulations or additional assistance on the IUR reporting requirements can be obtained by writing TSCA Hotline, U.S. Environmental Protection Agency, Office of Pollution Prevention and Toxics (7408M), 1200 Pennsylvania Ave., NW., Washington, DC 20460; calling (202) 554–1404; or sending an e-mail to*TSCA-Hotline@epamail.epa.gov*.

II. Background

A. What Action is the Agency Taking?

The Agency is announcing the 2006 reporting period for Inventory Update Reporting (IUR) under TSCA. IUR requires manufacturers and importers of certain chemical substances included on the TSCA Chemical Substances Inventory to report current data on the manufacturing, processing, and use of the substances. The 2006 reporting period is from August 25, 2006 to December 23, 2006.

The 2006 reporting period is the first time that reporting has been required since the promulgation of amendments on January 7, 2003 (68 FR 848). The 2003 Amendments and further subsequent revisions thereto have substantially altered the reporting requirements. For 2006, manufacturers of both organic and inorganic chemical substances listed on the TSCA Inventory are required to report company, site, and manufacturing information. IUR submitters may be required to report processing and use information for chemical substances manufactured (including imported) in amounts of 300,000 pounds or more during calendar year 2005.

B. What is the Agency's Authority for Taking this Action?

EPA is required under TSCA section 8(b), 15 U.S.C. 2607(b), to compile and keep current an inventory of chemical substances manufactured or processed in the United States. This inventory is known as the TSCA Chemical Substances Inventory (the TSCA Inventory). In 1977, EPA promulgated a rule (42 FR 64572, December 23, 1977) under TSCA section 8(a), 15 U.S.C. 2607(a), to compile an inventory of chemical substances in commerce at that time. In 1986, EPA promulgated the initial IUR rule under TSCA section 8(a), codified at 40 CFR part 710 (51 FR 21438, June 12, 1986), to facilitate the periodic updating of the TSCA Inventory and to support activities associated with the implementation of TSCA. In 2003, EPA promulgated extensive amendments to the IUR rule (68 FR 848, January 7, 2003) (FRL–6767–4) (2003 Amendments) to collect additional information regarding the manufacture of chemical substances and also, for chemicals produced in amounts of 300,000 pounds or more at a site, information regarding the processing and use of chemical substances. Minor corrections to the IUR rule were made in July of 2004 (69 FR 40787, July 7, 2004) (FRL–7332–3), and additional revisions to the IUR rule were made on December 19, 2005 (70 FR 75059) (FRL–7743–9).

After the initial reporting during 1986, recurring reporting was required every 4 years. Subsequent reporting cycles took place in 1990, 1994, 1998, and 2002. The next reporting period is from August 25, 2006 to December 23, 2006. Persons subject to the IUR must submit the required information during this period.

TSCA section 8(a)(1) authorizes the EPA Administrator to promulgate rules under which manufacturers and processors of chemical substances and mixtures (referred to hereinafter as chemical substances) must maintain such records and submit such information as the Administrator may reasonably require. TSCA section 8(a) generally excludes small manufacturers and processors of chemical substances from the reporting requirements established in TSCA section 8(a). However, EPA is authorized by TSCA section 8(a)(3) to require TSCA section 8(a) reporting from small manufacturers and processors with respect to any chemical substance that is the subject of a rule proposed or promulgated under TSCA section 4, 5(b)(4), or 6, or that is the subject of an order under TSCA section 5(e), or that is the subject of relief that has been granted pursuant to a civil action under TSCA section 5 or 7. The standard for determining whether an entity qualifies as a small manufacturer for purposes of 40 CFR part 710 generally is identified in 40 CFR 704.3. Processors are not currently subject to the regulations at 40 CFR part 710.

C. How Do I Know What Information is Currently in the TSCA Chemical Substances Inventory?

The Agency publishes, via the National Technical Information Service (NTIS), an updated public TSCA Inventory twice a year, normally around January/February and July/August each year. Specifically, each of the chemical substances included in these products is identified by a Chemical Abstracts Service (CAS) Index or Preferred Name, the corresponding CAS registry number, molecular formula, and if applicable, the chemical definition and appropriate EPA special flags as found in the printed Inventory. The substances are sequenced in ascending order of the corresponding CAS registry numbers. The products do not include chemical synonyms that are copyrighted by the CAS. Furthermore, generic names or EPA accession numbers for substances with confidential chemical identities are not included on the public TSCA Inventory.

For confidential substances, the Agency also publishes data linking the PMN case number to the corresponding accession number. The publication of the accession number will facilitate IUR reporting. These data are also available at the NTIS.

These products are available for sale from: National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161; telephone: (703) 605–6000, toll free: 1–800–553–NTIS; Internet address: *www.ntis.gov/fcpc*. The NTIS order number for the TSCA Inventory database CD ROM is SUB5423; for the accession number database CD ROM is PB2006500013; and for TSCA Tracker is SUB5435 or SUB5468.

D. How Do I Know If I Have to Report?

You have to report if you manufacture or import IUR reportable chemical substances included on the TSCA Chemical Substances Inventory in an amount of 25,000 pounds or more at a single site during the 2005 calendar year. EPA has developed an instructions manual (Instructions for Reporting for the 2006 Partial Updating of the TSCA Chemical Substances Inventory (Instructions for Reporting)) that provides guidance to assist manufacturers and importers in reporting under the 2006 IUR, including relevant citations to the CFR. For further and more specific information, please review the IUR reporting regulations beginning at 40 CFR 710.43.

E. How Do I Get a 2006 Reporting Package?

Materials and other information needed to report under the 2006 IUR are available from the Agency's Internet homepage,*http://www.epa.gov/oppt/iur*. The IUR website Documents, Tools, and Resources page contains information, software, and documents needed to

report in 2006. The eIUR reporting software is a downloadable software program to enable you to electronically complete and submit the IUR reporting form (Form U). The Instructions for Reporting provides guidance for completing the 2006 Form U. In addition, the presentation used during a past EPA IUR training workshop is available on the website.

In an effort to streamline the reporting process, reduce administrative costs, and accelerate processing, the Agency is relying more heavily on electronic methods of information dissemination and collection. In the past, EPA mailed a reporting package to persons who reported during the previous IUR reporting period. EPA is no longer mailing such a package, and is instead relying on the Internet for disseminating reporting information. If you do not have access to the Internet, traditional hard copies or CD ROMs containing the eIUR software or guidance documents will be made available through the TSCA Hotline listed under Unit I.B.

F. How Do I Submit My Report?

The regulation at 40 CFR 710.39 requires submitters to report using EPA's Form U. Submitters may report using the printed or the electronic 2006 Form U, although electronic reporting is preferred. Reporting options are further described on EPA's Internet website at *www.epa.gov/oppt/iur* under ''Reporting Options and Deadline.''

i. *Electronic reporting.* Instructions for electronic reporting are contained in the eIUR software and in the Instructions for Reporting. Electronic reporting consists of two steps. Electronic reporters are required to use the eIUR reporting software to develop a validated, correctly formatted, and encrypted data file. Once the software has completed the data file, the user will be provided with directions for submitting the data file. The data file can be delivered to EPA on a CD ROM or can be submitted through the Internet using the Agency's Central Data Exchange (CDX). Note that registration is required to submit through CDX. Please allow 2 weeks for the registration process. The eIUR software contains everything you need to report.

Because electronic reporting reduces the chances of errors in reporting and reduces resources needed to report and process reports, EPA is encouraging submitters to use the reporting software and file through the Internet using CDX or on a CD ROM.

ii. *Paper reporting.* Your completed Form U can be printed using the eIUR software. Form U is also available as a PDF on EPA's website or upon request from the TSCA Hotline at the address listed above.

G. Where Do I Submit My 2006 Report?

Instructions for submitting your report are included in the eIUR software and in the Instructions for Reporting. Reports can be submitted in two ways.

i. *Using the Internet.* You can submit your completed Form U through the Internet using EPA's CDX. To register with CDX, go to the CDX homepage at *www.epa.gov/cdx*. Click on ''Log-in to CDX'' and then ''Registration.'' Allow 2 weeks for the registration process. Once registered, follow the directions in the eIUR software to submit your report. The eIUR software must be used to submit through the Internet.

ii. *By mail or delivery service.* You can submit your completed Form U either on a CD ROM or on paper. Mail your submission to OPPT IUR Submission Coordinator, Mail code 7407M, ATTN: Inventory Update Reporting, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. If using a delivery service, please deliver your submission to OPPT IUR Submission Coordinator, Attn: Inventory Update Reporting, U.S. Environmental Protection Agency, Office of Pollution Prevention and Toxics, EPA East Bldg., Room 6428, 1201 Constitution Avenue, NW., Washington, DC.

H. What Happens If I Fail to Report During the 2006 Reporting Period?

If you fail to report as required, the Agency can take enforcementaction against you. Section 16 of the Act provides that any person whoviolates a provision of TSCA shall be liable to the United States for acivil penalty not to exceed $25,000 for each such violation.

I. Does this Action Involve Any New Information Collection Activities, Such as Reporting, Recordkeeping, or Notification?

No. The information collection requirements contained in 40 CFR part 710, subpart C, have already been approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, under OMB control number 2070–0070 (EPA ICR No. 1884.03). The annual public burden for this collection of information is estimated at 560 hours per response for organic chemicals, and 265 hours per response for inorganic chemicals. Under the PRA, ''burden'' means the total time, effort or financial resources expended by persons to generate, maintain, retain, or disclose information to or for a Federal agency. For this collection, it includes the time needed to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the collection of information. An agency may not conduct or sponsor and a person is not required to respond to, a collection of information unless it displays a currently valid OMB number. The OMB control number for this information collection appears above. In addition, the OMB control numbers for EPA's regulations, after initial display in the final rule, are listed in 40 CFR part 9 and appear on any form that is required to be used.

Send any comments on the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the Director, Regulatory Information Division, Office of Policy, Economics and Innovation, U.S. Environmental Protection Agency, Mail Code 1806A, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Include the OMB control number in any correspondence. Send only comments on the accuracy of the burden estimates to this address. Do not send your 2006 IUR submission information to this address. Your 2006 IUR submission should be submitted in accordance with the reporting instructions. The instructions are included in the reporting software.

List of Subjects in 40 CFR Part 710

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements.

Dated: August 28, 2006.

Charles M. Auer,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. E6–14993 Filed 9–8–06; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 090606A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA). This action is necessary to fully use the C season allowance of the 2006 total allowable catch (TAC) of pollock specified for Statistical Area 610 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 6, 2006, through 1200 hrs, A.l.t., October 1, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on September 3, 2006 (71 FR 52500, September 6, 2006).

NMFS has determined that approximately 5,400 mt of pollock remain in the directed fishing allowance. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the C season allowance of the 2006 TAC of pollock in Statistical Area 610, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 5, 2006.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.25 and § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 6, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–7568 Filed 9–6–06; 1:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 090506C]

Fisheries of the Exclusive Economic Zone Off Alaska; Chiniak Gully Research Area for Vessels Using Trawl Gear

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule.

SUMMARY: NMFS is rescinding the trawl closure in the Chiniak Gully Research Area. This action is necessary to allow vessels using trawl gear to participate in directed fishing for groundfish in the Chiniak Gully Research Area after the completion of NMFS research on September 6, 2006.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 6, 2006, through 2400 hrs, A.l.t., December 31, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Chiniak Gully Research Area is closed to vessels using trawl gear from August 1 to a date no later than September 20 under regulations at § 679.22(b)(6)(ii)(A). This closure is in support of a research project to evaluate the effect of commercial fishing activity on the prey availability of pollock to Steller sea lions.

The regulations at § 679.22(b)(6)(ii)(B) provide that the Acting Regional Administrator, Alaska Region, NMFS, (Regional Administrator) may rescind the trawl closure prior to September 20. As of September 6, 2006, the research has been completed in the Chiniak Gully Research Area. Therefore, the Regional Administrator is rescinding the closure of the Chiniak Gully Research Area. All other closures remain in full force and effect.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from immediately implementing this action in order to allow the participation of vessels using trawl gear in the Chiniak Gully Research Area. The research in the Chiniak Gully Research Area will be completed on September 6, 2006. Therefore, it is no longer necessary to keep this area closed. Allowing for prior notice and an opportunity for public comment would prevent the fisheries from realizing the economic benefits of this action. In addition, this rule is not subject to a 30-day delay in the effective date pursuant to 5 U.S.C. 553(b)(B) because it relieves a restriction. This action would reopen the Chiniak Gully Research Area to vessels using trawl gear and allow these vessels to participate in directed fishing for groundfish.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, are inapplicable.

This action has been determined to be not significant for purposes of EO 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 5, 2006.

Alan D. Risenhoover,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–7569 Filed 9–6–06; 1:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 090606B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to fully use the C season allowance of the 2006 total allowable catch (TAC) of pollock specified for Statistical Area 620 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 6, 2006, through 1200 hrs, A.l.t., October 1, 2006.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

NMFS closed the directed fishery for pollock in Statistical Area 620 of the GOA under § 679.20(d)(1)(iii) on September 3, 2006 (71 FR 52500, September 6, 2006).

NMFS has determined that approximately 3,400 mt of pollock remain in the directed fishing allowance. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C) and (a)(2)(iii)(D), and to fully utilize the C season allowance of the 2006 TAC of pollock in Statistical Area 620, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 620 of the GOA.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 620 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 5, 2006.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.25 and § 679.20 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 6, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–7570 Filed 9–6–06; 1:37 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 060216044–6044–01; I.D. 090606C]

Fisheries of the Economic Exclusive Zone Off Alaska; Shallow-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; inseason adjustment; opening; request for comments.

SUMMARY: NMFS is opening directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the Gulf of Alaska (GOA), effective 1200 hours, Alaska local time, September 6, 2006. This adjustment is necessary to allow a 12-hour fishery for species that comprise the shallow-water species fishery by vessels using trawl gear in the GOA to resume, without exceeding the 2006 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA.

DATES: Effective 12 noon, Alaska local time (A.l.t.), September 6, 2006, through 12 midnight, A.l.t., September 6, 2006.

Comments must be received no later than 4:30 p.m., A.l.t., September 21, 2006.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Walsh. Comments may be submitted by:

- Mail to: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building, 709 West 9th Street, Room 420A, Juneau, Alaska;
- FAX to 907–586–7557;
- E-mail to *shallowtrawl@noaa.gov* and include in the subject line of the e-mail comment the document identifier: **goaswx4srob** (E-mail comments, with or without attachments, are limited to 5 megabytes); or
- Webform at the Federal eRulemaking Portal: *www.regulations.gov*. Follow the instructions at that site for submitting comments.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2006 Pacific halibut bycatch allowance specified for the shallow-water species fishery in the GOA is 900 metric tons (mt) as established by the 2006 and 2007 harvest specifications for groundfish of the GOA (71 FR 10870, March 3, 2006), for the period 1200 hrs, A.l.t., September 1, 2006, through 1200 hrs, A.l.t., October 1, 2006. NMFS closed directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the

GOA under § 679.21(d)(7)(i) on September 1, 2006 (71 FR 51784, August 31, 2006).

NMFS has determined that approximately 220 mt of halibut remain in the 2006 Pacific halibut bycatch allowance specified for the trawl shallow-water species fishery in the GOA. Therefore, in accordance with § 679.25(a)(2)(i)(C) and (a)(2)(iii)(D), and to allow the shallow-water species fisheries by vessels using trawl gear in the GOA to resume, NMFS is temporarily terminating the August 31, 2006 (71 FR 51784) closure by reopening directed fishing for species that comprise the shallow-water species fishery by vessels using trawl gear in the GOA for 12 hours, effective 1200 noon, A.l.t., September 6, 2006. The species and species groups that comprise the shallow-water species fishery are pollock, Pacific cod, shallow-water flatfish, flathead sole, Atka mackerel, skates, and ''other species.''

After the effective date of this closure, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the delay the opening of the fishery, not allow the full utilization of the species and species groups that comprise the shallow-water species fisheries, and therefore reduce the public's ability to use and enjoy the fishery resource. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of September 5, 2006.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

Without this inseason adjustment, NMFS could not allow the shallow-water species fishery by vessels using trawl gear in the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until September 21, 2006.

This action is required by § 679.21 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: September 6, 2006.

James P. Burgess,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 06–7571 Filed 9–6–06; 1:37 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 71, No. 175
Monday, September 11, 2006

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–24289; Directorate Identifier 2005–NM–186–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300 Airplanes; A300 B4–600, B4–600R, and F4–600R Series Airplanes, and Model A300 C4–605R Variant F Airplanes (Collectively Called A300–600 Series Airplanes); and A310 Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: The FAA is revising an earlier NPRM for an airworthiness directive (AD) that applies to all Airbus airplanes identified above. The original NPRM would have required improving the routing of certain electrical wire bundles in certain airplane zones, as applicable to the airplane model. The original NPRM resulted from fuel system reviews conducted by the manufacturer. This action revises the original NPRM by removing certain requirements, extending the compliance time for a certain replacement, and specifies that the actions in this proposed AD are considered interim action until a terminating action for the removed requirements is approved and available. We are proposing this supplemental NPRM to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

DATES: We must receive comments on this supplemental NPRM by October 6, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this supplemental NPRM.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Airbus, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Thomas Stafford, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1622; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this supplemental NPRM. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''Docket No. FAA–2006–24289; Directorate Identifier 2005–NM–186–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this supplemental NPRM. We will consider all comments received by the closing date and may amend this supplemental NPRM in light of those comments.

We will post all comments submitted, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this supplemental NPRM. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov,* or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level in the Nassif Building at the DOT street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

We proposed to amend 14 CFR part 39 with a notice of proposed rulemaking (NPRM) for an airworthiness directive (AD) (the ''original NPRM''). The original NPRM applies to all Airbus Model A300 B2 and A300 B4 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called A300–600 series airplanes); and A310–200 and –300 series airplanes. The original NPRM was published in the **Federal Register** on April 4, 2006 (71 FR 16716). The original NPRM proposed to require improving the routing of certain electrical wire bundles in certain airplane zones, as applicable to the airplane model.

Since the original NPRM was issued, the European Aviation Safety Agency (EASA) has superseded French airworthiness directive F–2005–112 R1, dated September 14, 2005, which was referenced as the parallel airworthiness directive for the actions in the original NPRM. EASA airworthiness directive 2006–0074, dated April 3, 2006, removes Actions 1 and 2 and specifies that a new EASA airworthiness directive is planned in the future to mandate the embodiment of certain new service information that will render Actions 1 and 2 null and void.

Actions 1 and 2 were:

- *Action 1*—Install a heat-shrinkable sleeve along the complete length of the electrical supply bundle of the fuel pumps. These electrical supply bundles

are located in metallic protective conduits in zones 571 and 671.

• *Action 2*—Install a heat-shrinkable sleeve along the complete length of the electrical supply bundle of the fuel pumps. These electrical supply bundles are located in metallic protective conduits in zones 575 and 675.

In this supplemental NPRM, we have removed the service bulletins that were referenced as the appropriate sources of service information for doing Actions 1 and 2 in the original NPRM. The service bulletins are described in the following table.

AIRBUS SERVICE BULLETINS REMOVED IN THIS SUPPLEMENTAL NPRM

Airbus service bulletin	Revision level	Date
A300–28–0057	02	January 8, 2001.
A300–28–6018	1	September 15, 1988.
A300–28–0070	01	March 18, 1999.
A300–28–6048	Original	September 19, 1996.
A310–28–2112	Original	September 19, 1996.

We have also removed Airbus Service Bulletins A300–28–6010, Revision 1, dated September 17, 1986; and A310–28–2008, Revision 2, dated May 14, 1990; which were referenced in the original NPRM as prior/concurrent service bulletins for Actions 1 and 2. We have also removed Airbus Service Bulletins A300–24–0073, Revision 04, dated June 30, 1998; and A300–24–6004, Revision 03, dated June 30, 1998; which were referenced in the original NPRM as prior/concurrent service bulletins for Action 3. Airbus has informed us that the actions in Airbus Service Bulletins A300–24–0073 and A300–24–6004 are recommended as complementary measures to improve the trailing edge electrical installation reliability, but are not required for accomplishing Action 3. However, Airbus Service Bulletin A300–24–6004 is still specified as a requirement for accomplishing Action 5.

Relevant Service Information

Airbus has issued the service bulletins identified in the following table. We described these service bulletins in the original NPRM.

AIRBUS SERVICE BULLETINS

Action	Applicable to model—	Described in Service Bulletin—
3	A300 airplanes	A300–24–0085, Revision 06, dated October 13, 2005.
	A300–600 series airplanes	A300–24–6043, Revision 06, dated October 13, 2005.
4	A300–600 series airplanes	A300–28–6056, dated February 18, 1998.
5	A300–600 series airplanes	A300–24–6004, Revision 03, dated June 30, 1998.
	A310 airplanes	A310–24–2009, Revision 03, dated June 30, 1998.
6	A300 airplanes	A300–24–0100, dated April 7, 2005.
	A300–600 series airplanes	A300–24–6084, Revision 01, dated June 28, 2005.
	A310 airplanes	A310–24–2091, dated March 4, 2005.

EASA mandated the service information and issued EASA airworthiness directive EASA airworthiness directive 2006–0074, dated April 3, 2006, to ensure the continued airworthiness of these airplanes in the European Union.

Comments

We have considered the following comments on the original NPRM.

Requests To Extend Compliance Time

FedEx, and Air Transport Association (ATA), on behalf of its member American Airlines (AAL), request that we extend the compliance time. FedEx states that the proposed compliance time of 26 months after the effective date of the AD is not acceptable and states that it requires 43 months after the effective date to comply. FedEx's comment implies that the 43-month compliance time would better align with its maintenance schedule. AAL requests a 30-month compliance time to align with its maintenance schedule. The scope of the modifications is well beyond the capabilities of AAL's lower-level maintenance infrastructure. AAL is also concerned about kit availability and lead times. AAL states that the relevant reliability and service interruption data gathered since 1996 do not support the 26-month compliance time. AAL has had inspections in place for the affected area since 1996 and has had no significant findings that would indicate re-emergence of the unsafe condition specified in the original NPRM. In addition, AAL states that it has implemented mitigation techniques that are similar but less costly than those described in the referenced serviced bulletins.

We disagree with the commenters. We have determined that the compliance time, as proposed, represents the maximum interval of time allowable for the affected airplanes to continue to safely operate before the modification is done. In addition, we have confirmed with the parts manufacturer that parts will be available to operators within the timeframe proposed in this supplemental NPRM. However, operators may request an Alternative Method of Compliance (AMOC) in accordance with the procedures specified in paragraph (l) of this supplemental NPRM.

Request for Editorial Changes

Airbus notes that the original NPRM should be corrected in three areas: In paragraph (h)(2), Modification 11276 should be replaced by Modification 10505; in paragraph (j)(2), Modification 478 should be replaced by Modification 6478; and in paragraph (k), the phrase "* * * with new metallic clamps * * *; or replace * * * " should be replaced by "* * * with new metallic clamps * * * and/or replace."

We agree with Airbus. We have made the noted editorial changes in the applicable paragraphs of the supplemental NPRM.

Request To Withdraw Action

ATA, on behalf of AAL, notes that some of the service bulletins in the original NPRM had been released as early as 1988 without the FAA taking

AD action. The commenters state that this indicates that at the time the inherent safety risk was not considered to be significant enough to warrant regulatory action.

We infer that the commenters are requesting that we withdraw the supplemental NPRM because the action is not warranted. We disagree. As stated in the original NPRM, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (67 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,'' Amendment 21–78, and subsequent Amendments 21–82 and 21–83). Among other actions, SFAR 88 requires certain type design (*i.e.*, type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the original NPRM, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

The Joint Aviation Authorities (JAA) have issued a regulation that is similar to SFAR 88. (The JAA is an associated body of the European Civil Aviation Conference (ECAC) representing the civil aviation regulatory authorities of a number of European States who have agreed to co-operate in developing and implementing common safety regulatory standards and procedures.) Under this regulation, the JAA stated that all members of the ECAC that hold type certificates for transport category airplanes are required to conduct a design review against explosion risks.

The original NPRM and this supplemental NPRM follow from those rulings. As such, they may make use of service information issued previously but not mandated by AD action.

Explanation of Change in Applicability

We have revised the applicability to more closely match the effectivity of the EASA airworthiness directive. This change does not expand the applicability of this proposed action.

Explanation of Change in Compliance Time of Paragraph (h)

Paragraph (h) of the NPRM specifies to do the replacement ''within 24 months after the effective date of this AD'' and to repeat thereafter at intervals not to exceed 24 months. We have revised the compliance times in paragraph (h) of this supplemental NPRM to specify a compliance time of ''within 26 months after the effective date of this AD'' and to repeat thereafter at intervals not to exceed 26 months. We have determined that extending the compliance time will not adversely affect safety and will allow operators to coordinate the replacement specified in paragraph (h) of this supplemental NPRM with the other actions specified in this supplemental NPRM. This difference has been coordinated with the EASA.

FAA's Determination and Proposed Requirements of the Supplemental NPRM

The changes discussed above expand the scope of the original NPRM; therefore, we have determined that it is necessary to reopen the comment period to provide additional opportunity for public comment on this supplemental NPRM.

Interim Action

We consider this proposed AD interim action. EASA has informed us that the manufacturer is currently developing an additional modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this supplemental NPRM.

This supplemental NPRM would affect about 169 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this supplemental NPRM. The average labor rate is $80 per work hour.

ESTIMATED COSTS

For airplanes on which this action is required—	Work hours	Parts	Cost per airplane
Action 3, Modify the retaining and protection system	4 to 16	$836 to $1,056	$1,156 to $2,336.
Action 4, Modify the electrical wiring of routes 1P and 2P	2	$720	$880.
Action 5, Inspect the wire looms on the wing trailing edge	8	Operator Supplied	$640.
Action 6, Replace the nylon clamps of the electrical routes in the hydraulic compartment and in the shroud box.	44 to 98	$100 to $5,700	$3,620 to $13,540.

Based on these figures, the estimated cost of the supplemental NPRM for U.S. operators is up to $2,939,924, or up to $17,396 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this supplemental NPRM and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Airbus: Docket No. FAA–2006–24289; Directorate Identifier 2005-NM–186-AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by October 6, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Airbus Model A300 airplanes; A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes; and A310 airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from fuel system reviews conducted by the manufacturer. We are issuing this AD to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Action 3—Modify the Retaining and Protection System

(f) For all airplanes identified in paragraphs (f)(1), and (f)(2) of this AD: Within 26 months after the effective date of this AD, modify the retaining and protection system for the electrical bundles located at the wing-to-fuselage junction, under the flap control screw jack.

(1) For Model A300 airplanes: Do the actions specified in paragraph (f) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–0085, Revision 06, dated October 13, 2005.

(2) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes, except those on which Airbus Modification 10505 has been done: Do the action specified in paragraph (h) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–6043, Revision 06, dated October 13, 2005.

Action 4—Modify the Electrical Wiring of Routes 1P and 2P

(g) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes; except those on which Airbus Modification 11741 has been done: Within 26 months after the effective date of this AD, modify the electrical wiring of routes 1P and 2P (along the top panel of the shroud box and the rear spars of the wings) by extending the protective conduits up to the next support, and replace the two existing clamps on this support with new, improved clamps. Do all actions in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–28–6056, dated February 18, 1998.

Action 5—Inspect the Wire Looms

(h) For all airplanes identified in paragraphs (h)(1) and (h)(2) of this AD: Within 26 months after the effective date of this AD, do a general visual inspection of the wire looms on the wing trailing edge for improperly held wires in the clamps, restore the electrical bundles to good condition, and replace the affected nylon clamps with metallic clamps that have an elastometer lining. Do any applicable corrective action before further flight. Repeat the inspection thereafter at intervals not to exceed 26 months until all clamps have been replaced.

(1) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes; except those on which Airbus Modification 6478 has been done: Do the actions specified in paragraph (h) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–6004, Revision 03, dated June 30, 1998.

(2) For Model A310 airplanes, except those on which Airbus Modification 6478 has been done: Do the actions specified in paragraph (h) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–24–2009, Revision 03, dated June 30, 1998.

Action 6—Improve the Quality of the Electrical Routes

(i) For all airplanes identified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD: Within 26 months after the effective date of this AD, replace the nylon clamps of the electrical routes in the hydraulic compartment and in the shroud box with new metallic clamps that have white silicone lining (for airplanes identified in paragraph (i)(1) of this AD); and/or replace the nylon clamps and change the location of routes 1P and 2P to improve the retention of the wiring loom (for airplanes identified in paragraphs (i)(2) and (i)(3) of this AD).

(1) For Model A300 airplanes; except those on which Airbus Modification 11763 has been done: Do the action specified in paragraph (i) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–0100, dated April 7, 2005.

(2) For Model A300 B4–601, B4–603, B4–620, B4–622, B4–605R, B4–622R, A300 F4–605R, F4–622R, and C4–605R Variant F airplanes; except those on which Airbus Modifications 11763 and 12995 have been done: Do the action specified in paragraph (i) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–24–6084, Revision 01, dated June 28, 2005.

(3) For Model A310 airplanes, except those on which Airbus Modification 11763 has been done: Do the action specified in paragraph (i) of this AD in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–24–2091, dated March 4, 2005.

Parts Installation

(j) After the effective date of this AD, no person may install on any airplane plate assemblies with part numbers A5351088000000 or A5351088000100 unless they have been modified in accordance with paragraph (f) of this AD.

Actions Accomplished According to Previous Revisions of Service Bulletins

(k) Actions done before the effective date of this AD in accordance with the service bulletins identified in Table 1 of this AD are acceptable for compliance with the corresponding requirements in this AD.

TABLE 1.—PREVIOUS REVISIONS OF SERVICE BULLETINS

Airbus Service Bulletin	Revision level	Date
A300–24–0085	Original	December 12, 1994.
A300–24–0085	03	January 17, 1996.

TABLE 1.—PREVIOUS REVISIONS OF SERVICE BULLETINS—Continued

Airbus Service Bulletin	Revision level	Date
A300–24–0085	04	July 23, 1996.
A300–24–0085	05	March 6, 2001.
A300–24–6004	1	January 28, 1988.
A300–24–6004	2	February 24, 1995.
A300–24–6043	Original	December 12, 1994.
A300–24–6043	01	February 7, 1995.
A300–24–6043	02	May 10, 1995.
A300–24–6043	03	January 17, 1996.
A300–24–6043	04	March 6, 2001.
A300–24–6043	05	August 30, 2001.
A300–24–6084	Original	March 4, 2005.
A310–24–2009	Original	May 31, 1985.
A310–24–2009	1	January 28, 1988.
A310–24–2009	2	February 24, 1995.

Alternative Methods of Compliance (AMOCs)

(l)(1) The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(m) European Aviation Safety Agency airworthiness directive 2006–0074, dated April 3, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on September 1, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–14945 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–25779; Directorate Identifier 2006–NM–088–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for all Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This proposed AD would require revising the Certification Maintenance Requirements and the Maintenance Review Board Report sections of the Canadair Regional Jet Maintenance Requirements Manual to include changes and additions to checks of the aileron power control units (PCUs) and a change to the interval of the backlash check of the aileron control system. This proposed AD results from a report that data collected from in-service airplanes show that approximately 19 percent of aileron backlash checks conducted at 4,000-flight-hour intervals reveal that aileron backlash wear limits are being exceeded. We are proposing this AD to prevent exceeded backlashes in both aileron PCUs, which, if accompanied by the failure of the flutter damper, could result in aileron vibration/flutter and reduced controllability of the airplane.

DATES: We must receive comments on this proposed AD by October 11, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this proposed AD.

- *DOT Docket Web site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, room PL–401, Washington, DC 20590.
- *Fax:* (202) 493–2251.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Daniel Parrillo, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7305; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any relevant written data, views, or arguments regarding this proposed AD. Send your comments to an address listed in the **ADDRESSES** section. Include the docket number ''FAA–2006–25779; Directorate Identifier 2006–NM–088–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov*, or in person at the Docket Management Facility office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Management Facility office (telephone (800) 647–5227) is located on the plaza level of the Nassif Building at the DOT street address stated in the **ADDRESSES** section. Comments will be available in the AD docket shortly after the Docket Management System receives them.

Discussion

Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, notified us that an unsafe condition may exist on all Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. TCCA advises that data collected from in-service airplanes show that approximately 19 percent of aileron backlash checks conducted at 4,000-flight-hour intervals reveal that aileron backlash wear limits are being exceeded. Exceeding the backlash in both aileron power control units (PCUs), if accompanied by the failure of the flutter damper, could result in aileron vibration/flutter and reduced controllability of the airplane.

Relevant Service Information

Bombardier has issued Canadair Regional Jet Temporary Revision 2A–20, dated March 13, 2006, to Part 2, Appendix A—Certification Maintenance Requirements, of the Canadair Regional Jet Maintenance Requirements Manual (MRM), CSP A–053. The temporary revision adds Task C27–10–105–06, a functional check of each aileron PCU for internal leakage at intervals not to exceed 5,000 flight hours, and revises Task C27–10–105–05 to remove the check of the aileron PCU from the functional check of each rudder and elevator PCU for backlash and deflection under load at intervals not to exceed 4,000 flight hours.

Bombardier has also issued Canadair Regional Jet Temporary Revision 1–2–33, dated October 27, 2005, to Part 1, Section 2—Systems/Powerplant Program, of the Canadair Regional Jet MRM, CSP A–053. The temporary revision revises Task 27–11–00–09 to perform the functional check (backlash) of the aileron control system at intervals not to exceed 2,000 flight hours.

Bombardier also issued Revision 10, dated May 27, 2005, of the Canadair Regional Jet Maintenance Review Board (MRB) Report for Section 2—Systems and Powerplant Program, of Part 1 of the Canadair Regional Jet MRM, CSP A–053. Revision 10 incorporates Task 27–11–00–09 as revised by Canadair Regional Jet Temporary Revision 1–2–33, into the MRB report.

TCCA mandated the service information and issued Canadian airworthiness directive CF–2006–04, dated March 22, 2006, to ensure the continued airworthiness of these airplanes in Canada.

FAA's Determination and Requirements of the Proposed AD

These airplane models are manufactured in Canada and are type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, TCCA has kept the FAA informed of the situation described above. We have examined TCCA's findings, evaluated all pertinent information, and determined that we need to issue an AD for airplanes of this type design that are certificated for operation in the United States.

Therefore, we are proposing this AD, which would require accomplishing the actions specified in the service information described previously.

Costs of Compliance

This proposed AD would affect about 742 airplanes of U.S. registry. The proposed actions would take about 1 work hour per airplane, at an average labor rate of $80 per work hour. Based on these figures, the estimated cost of the proposed AD for U.S. operators is $59,360, or $80 per airplane.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The Federal Aviation Administration (FAA) amends § 39.13 by adding the following new airworthiness directive (AD):

Bombardier, Inc. (Formerly Canadair):
Docket No. FAA–2006–25779;
Directorate Identifier 2006–NM–088–AD.

Comments Due Date

(a) The FAA must receive comments on this AD action by October 11, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category.

Unsafe Condition

(d) This AD results from a report that data collected from in-service airplanes show that

approximately 19 percent of aileron backlash checks conducted at 4,000-flight-hour intervals reveal that aileron backlash wear limits are being exceeded. We are issuing this AD to prevent exceeded backlashes in both aileron power control units (PCUs), which, if accompanied by the failure of the flutter damper, could result in aileron vibration/flutter and reduced controllability of the airplane.

Compliance

(e) You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

Revision of the Maintenance Requirements Manual (MRM)

(f) Within 60 days after the effective date of this AD, revise the Canadair Regional Jet MRM CSP A–053 by doing the actions specified in paragraphs (f)(1) and (f)(2) of this AD. When the tasks specified in Canadair Regional Jet Temporary Revisions 2A–20, dated March 13, 2006; and 1–2–33, dated October 27, 2005; are included in the general revisions of the MRM, the general revisions may be inserted in the MRM, and these temporary revisions may be removed.

(1) Revise the Certification Maintenance Requirements section of the Canadair Regional Jet MRM to include Tasks C27–10–105–06 and C27–10–105–05, as specified in Canadair Regional Jet Temporary Revision 2A–20, dated March 13, 2006, to Part 2, Appendix A—Certification Maintenance Requirements, of the Canadair Regional Jet MRM CSP A–053.

(2) Revise the Maintenance Review Board Report for Section 2—Systems and Powerplant Program, of Part 1 of the Canadair Regional Jet MRM CSP A–053, to include the task interval for Task 27–11–00–09, as specified in Canadair Regional Jet Temporary Revision 1–2–33, dated October 27, 2005. Incorporating Revision 10, dated May 27, 2005, of the Canadair Regional Jet Maintenance Review Board Report for Section 2—Systems and Powerplant Program of the Canadair Regional Jet MRM CSP A–053 is one approved method for including the task interval specified in Canadair Regional Jet Temporary Revision 1–2–33. After the task interval has been incorporated into the MRM, no alternative aileron backlash check interval in excess of 2,000 flight hours may be approved, except as specified in paragraphs (g) and (h) of this AD.

Phase-In Schedule for Initial Inspection Specified in MRM Revisions

(g) For airplanes with more than 1,000 flight hours but less than 3,000 flight hours since the last aileron backlash check specified in Task 27–11–00–09 was accomplished, as of the effective date of this AD: Within 1,000 flight hours after the effective date of this AD, do the next aileron backlash check in accordance with Task 27–11–00–09, as specified in Canadair Regional Jet Temporary Revision 1–2–33, dated October 27, 2005.

(h) For airplanes with 3,000 flight hours or more since the last aileron backlash check specified in Task 27–11–00–09 was accomplished, as of the effective date of this AD: Within 4,000 flight hours since the last aileron backlash check, do the next aileron backlash check in accordance with Task 27–11–00–09, as specified in Canadair Regional Jet Temporary Revision 1–2–33, dated October 27, 2005.

One Approved Method for Task C27–10–105–06

(i) For airplanes without access to ground support equipment necessary to do the PCU internal leakage functional check as specified in Task C27–10–105–06 as specified in paragraph (f)(1) of this AD: Doing the aileron PCU internal leakage check in accordance with Task 27–11–00–220–803 of Chapter 27–11–00 of the Canadair Regional Jet Aircraft Maintenance Manual at intervals not to exceed 4,000 flight hours is one approved method for accomplishing Task C27–10–105–06 and is acceptable for up to 12 months after the effective date of this AD. Thereafter, the check must be done in accordance with Task C27–10–105–06 as specified in paragraph (f)(1) of this AD at a repetitive interval not to exceed that specified in the task.

Alternative Methods of Compliance (AMOCs)

(j)(1) The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

(2) Before using any AMOC approved in accordance with § 39.19 on any airplane to which the AMOC applies, notify the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

Related Information

(k) Canadian airworthiness directive CF–2006–04, dated March 22, 2006, also addresses the subject of this AD.

Issued in Renton, Washington, on September 1, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–14941 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–200–AD]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Proposed rule; withdrawal.

SUMMARY: This action withdraws a notice of proposed rulemaking (NPRM) that proposed a new airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes. That action would have required repetitive leak tests of the lavatory drain systems and repair, if necessary; installation of a lever lock cap, vacuum breaker check valve or flush/fill line ball valve on the flush/fill line; periodic seal changes; and replacement of ''donut'' type waste drain valves installed in the waste drain system. Since the issuance of the NPRM, the Federal Aviation Administration (FAA) has reviewed existing data and determined that, for airplanes without a history of engine damage resulting from ''blue ice,'' such as Lockheed Model L–1011–385 series airplanes, the hazard of ''blue ice'' to persons and property may be more appropriately addressed through means other than AD action. Accordingly, the proposed rule is withdrawn.

FOR FURTHER INFORMATION CONTACT: Hector Hernandez, Aerospace Engineer, Systems and Equipment Branch, ACE–119A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6069; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to add a new airworthiness directive (AD), applicable to all Lockheed Model 1011–385 series airplanes, was published in the **Federal Register** as a Notice of Proposed Rulemaking (NPRM) on September 3, 1998 (63 FR 46927). The proposed rule would have required repetitive leak tests of the lavatory drain systems and repair, if necessary; installation of a lever lock cap, vacuum breaker check valve or flush/fill line ball valve on the flush/fill line; periodic seal changes; and replacement of ''donut'' type waste drain valves installed in the waste drain system. That action was prompted by continuing reports of damage to engines, airframes, and to property on the ground, caused by ''blue ice'' that forms from leaking lavatory drain systems on transport category airplanes and subsequently dislodges from the airplane fuselage. The proposed actions were intended to prevent such damage associated with the problems of ''blue ice.''

Comments Received Regarding the NPRM

Several commenters request various changes to the NPRM. In light of the fact that we are withdrawing the NPRM, responses to those requests are unnecessary, except as discussed below.

Request To Withdraw the NPRM

One commenter, American Trans Air, suggests several reasons why an AD is unnecessary for Lockheed Model L–1011–385 series airplanes. The commenter points out that Model L–1011–385 series airplanes do not have the adverse service history with ''blue ice'' leakage that some other airplane models have. The commenter suggests that this may be due, in part, to certain basic differences between the forward lavatory waste system of Model L–1011–385 series airplanes and certain other airplanes such as Boeing Model 727 and 737 airplanes. In support of this statement, the commenter submitted a drawing showing basic differences between the forward lavatory waste system of Model L–1011–385 series airplanes and Model 727 series airplanes. Additionally, the commenter states that normal preflight inspections for blue streaks on the fuselage are adequate for detecting valve leakage without requiring mandatory action.

The FAA infers that the commenter is requesting that the NPRM be withdrawn. We agree with the commenter's statements. In addition, for the reasons stated below, we are withdrawing the NPRM.

Actions That Occurred Since the NPRM Was Issued

Since the issuance of that NPRM, we have determined that it is unnecessary to regulate the actions proposed in the NPRM for certain airplane models equipped with potable water systems and lavatory fill and drain systems, including Model L1011–385 series airplanes. Based on analysis of various service information and data accumulated in the last several years, we have determined that, for airplanes without a history of engine damage resulting from ''blue ice,'' such as Model L–1011–385 series airplanes, the hazards of ''blue ice'' to persons or property on the ground may be more appropriately addressed by the issuance of a special airworthiness information bulletin (SAIB).

FAA's Conclusions

Upon further consideration, we have issued SAIB NM–06–57, dated July 27, 2006, which contains recommendations for owners and operators of certain transport category airplanes regarding maintenance and ground handling practices and procedures that are intended to adequately address issues involving ''blue ice.'' Accordingly, the proposed rule is hereby withdrawn.

Withdrawal of this NPRM constitutes only such action, and does not preclude the agency from issuing another action in the future, nor does it commit the agency to any course of action in the future.

Regulatory Impact

Since this action only withdraws a notice of proposed rulemaking, it is neither a proposed nor a final rule and therefore is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Withdrawal

Accordingly, the notice of proposed rulemaking, Docket 98–NM–200–AD, published in the **Federal Register** on September 3, 1998 (63 FR 46927), is withdrawn.

Issued in Renton, Washington, on September 1, 2006.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E6–14944 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

29 CFR Part 2509

RIN 1210–AB09

Independence of Employee Benefit Plan Accountants

AGENCY: Employee Benefits Security Administration, DOL.

ACTION: Request for Information.

SUMMARY: This document requests information from the public concerning the advisability of amending Interpretive Bulletin 75–9 (29 CFR 2509.75–9) relating to guidelines on independence of accountants retained by employee benefit plans under section 103(a)(3)(A) of the Employee Retirement Income Security Act of 1974 (ERISA). Under ERISA, unless otherwise exempt, the plan administrator is required to retain on behalf of all plan participants an ''independent qualified public accountant'' to examine the financial statements of the plan and render an opinion as to whether the financial statements and schedules required to be included in the plan's annual report are presented fairly in conformity with generally accepted accounting principles (GAAP). The purpose of this notice is to obtain information to assist the Department of Labor in evaluating whether and to what extent Interpretive Bulletin 75–9 provides adequate guidance to meet the needs of plan administrators, other plan fiduciaries, participants and beneficiaries, accountants, and other affected parties on when a qualified public accountant is independent.

DATES: Written responses must be received by the Department of Labor on or before December 11, 2006.

ADDRESSES: Responses should be addressed to the Office of Regulations and Interpretations, Employee Benefits Security Administration (EBSA), Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attn: Independence of Accountant RFI (RIN 1210–AB09). Responses also may be submitted electronically to *e-ori@dol.gov* or by using the Federal eRulemaking Portal *www.regulations.gov* (follow instructions for submission of comments). EBSA will make all responses available to the public on its Web site at *www.dol.gov/ebsa*. The responses also will be available for public inspection at the Public Disclosure Room, N–1513, EBSA, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Michael G. Leventhal, Office of Regulations and Interpretations, Employee Benefits Security Administration, U.S. Department of Labor, (202) 693–8523 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

A. Background

The Employee Retirement Income Security Act (ERISA) was enacted in 1974 to remedy certain abuses in the nation's private-sector employee pension benefit plan and employee welfare benefit plan system. ERISA contains provisions designed to protect the interests of plan participants and beneficiaries by requiring the establishment of effective mechanisms to detect and deter abusive practices. These provisions include requiring annual reporting of financial information and activities of employee benefit plans to the Department of Labor (Department). An integral component of ERISA's annual reporting provisions is the requirement that employee benefit plans, unless otherwise exempt, be subjected to an annual audit performed by an independent qualified public accountant (IQPA) and that the accountant's report be included as part

of the plan's annual report filed with the Department.[1]

The IQPA requirements in ERISA were intended to provide participants, beneficiaries, plan administrators, other plan fiduciaries, and the Department with reliable information about an employee benefit plan and its financial soundness. The precursor to ERISA, the Welfare and Pension Plan Disclosure Act of 1958 (WPPDA), required a certified audit only when the Secretary of Labor found reasonable cause to investigate a plan. Legislative history of ERISA indicates that Congress found this requirement to be insufficient, and specifically replaced it with the annual certified audit requirements in section 103(a)(3)(A) of ERISA.

Section 103(a)(3)(A) of ERISA sets forth the requirements governing the IQPA's annual audit. The administrator of an employee benefit plan is required to engage, on behalf of all plan participants, an IQPA to conduct an examination of the plan's financial statements, and other books and records of the plan, as the accountant deems necessary to allow the accountant to form an opinion as to whether the financial statements and schedules required to be included in the plan's annual report are presented fairly in accordance with generally accepted accounting principles (GAAP) applied on a basis consistent with that of the preceding year. The accountant's examination must be conducted ''in accordance with generally accepted auditing standards (GAAS), and shall involve such tests of the books and records of the plan as are considered necessary by the independent qualified public accountant.'' The accountant's report must contain certain opinions with respect to the financial statements and schedules covered by the report and the accounting principles and practices reflected in such report. Further, the accountant's report must identify any matters to which the accountant takes exception, whether the matters to which the accountant takes exception are the result of Department's regulations and, to the extent practicable, the effect on the financial statements of the matters to which the accountant has taken exception. If the auditor's independence is considered to have been impaired after the audit is completed, a new audit by another accountant may be required.

Section 103(a)(3)(D) of ERISA states that the term ''qualified public accountant'' means—(i) a person who is a certified public accountant, certified by a regulatory authority of a State; (ii) a person who is a licensed public accountant, licensed by a regulatory authority of a State, or (iii) a person certified by the Secretary as a qualified public accountant in accordance with regulations published by the Secretary for a person who practices in States where there is no certification or licensing procedure for accountants. ERISA does not, however, define what would constitute ''independence'' for purposes of the audit requirements.

In the Department's view, an accountant's independence is at least of equal importance to the professional competence he or she brings to an engagement in rendering an opinion and issuing a report on the financial statements of an employee benefit plan. Pursuant to the authority provided to the Department by section 103(a)(3)(A), the Department issued Interpretive Bulletin 75–9 in 1975 to provide guidelines for determining when an accountant is independent for purposes of ERISA's annual reporting requirements. The bulletin explains that the Department will not recognize any person as an independent qualified public accountant with respect to an employee benefit plan who is not in fact independent.

The rule also specifically describes three kinds of relationships that will cause an accountant not to be independent. During the audit engagement and during the period covered by the audit, the accountant, his or her firm, and any member of the firm cannot: (1) Have or be committed to acquire any direct financial interest or any material indirect financial interest in the plan or the plan sponsor; (2) have a connection to the plan or plan sponsor as a promoter, underwriter, investment advisor, voting trustee, director, officer or employee of the plan or plan sponsor; and (3) maintain financial records for the employee benefit plan. The Interpretive Bulletin defines ''member'' of an accounting firm as all partners or shareholder employees in the firm and all professional employees participating in the audit or located in an office of the firm participating in a significant portion of the audit. The Interpretive Bulletin provides that independence is required during the period of professional engagement, at the date of the opinion, and during the period covered by the financial statements. In addition to the specific proscriptions, the Bulletin cautions that the Department will give appropriate consideration to all relevant circumstances in determining whether an accountant or accounting firm is not, in fact, independent with respect to a particular plan, including evidence bearing on all relationships between the accountant or accounting firm and that of the plan sponsor or any affiliate. In that regard, Interpretive Bulletin 75–9 notes that an accountant will not fail to be recognized as independent merely because the accountant or his or her firm is retained or engaged on a professional basis by the plan sponsor, provided none of the three specific proscriptions are violated. Further, the Interpretive Bulletin states that the rendering of services to the plan or plan sponsor by an actuary associated with the accountant or accounting firm will not impair the accountant's independence.

In addition to ERISA's annual reporting requirements, accountants and accounting firms are subject to independence requirements of other governmental agencies and accounting industry self-regulatory bodies. For example, the Securities and Exchange Commission (SEC) has independence guidelines for auditors reporting on financial statements included in SEC filings. Those guidelines were for many years contained in Rule 2–01 of Reg. S–X, Qualifications and Reports of Accountants. On January 28, 2003, the SEC adopted final rules regarding independence for auditors that file financial statements with the SEC implementing Title II of the Sarbanes-Oxley Act of 2002. The Sarbanes-Oxley Act also authorized the establishment of the Public Company Accounting Oversight Board (''PCAOB'') which itself has established ethics and independence requirements for registered public accounting firms. The United States Government Accountability Office (GAO) has auditor independence requirements under Government Auditing Standards[2] that cover Federal entities and organizations receiving Federal funds. The American Institute of Certified Public Accountants (AICPA) sets GAAS requirements

[1] Certain employee benefit plans are eligible for waivers or limited exemptions from the IQPA audit requirements under regulations issued by the Department. For example, regulation section 2520.104–44 provides a limited exemption for welfare plans which are either unfunded, insured or partly unfunded-partly insured. If a plan does not comply with ERISA's annual reporting requirements, including failure to satisfy the requirement to have an audit report and opinion of an IQPA, the Department may reject the plan's annual report. If a satisfactorily revised report is not submitted, the Department may under section 104(a)(5) of ERISA retain an independent qualified public accountant on behalf of the participants to perform a sufficient audit, bring a civil suit for whatever relief may be appropriate, or take any other enforcement action authorized under Title I.

[2] Information about Government Auditing Standards (commonly referred to as ''Generally Accepted Government Auditing Standards,'' or ''GAGAS'') is available on the GAO Web site at *www.gao.gov/govaud/ybk01.htm.*

including standards by which the auditor must abide to avoid impairment of independence.[3] Many States have an independence component in their requirements for licensed public accountants. Some have adopted the AICPA's Code of Conduct, including its independence guidelines. Others, however, have adopted specific rules, including limitations on offering or rendering services under a contingency fee arrangement as well as limitations on ownership interests in the enterprise being audited.[4] Further, the nature and complexity of the business environment in which accountants perform services has changed in ways that have led many accounting firms to develop expertise in an array of activities peripheral to audit services, for example, business consulting, valuation and appraisal services, applications programming, electronic data processing and recordkeeping. The Department has received public comments indicating that these developments have made it a more complicated process for accountants and accounting firms to monitor compliance with the different independence standards that apply in the different business sectors in which they provide audit services.

B. Request for Information

The purpose of this Notice is to obtain information to assist the Department in evaluating whether and to what extent the guidelines in Interpretive Bulletin 75–9 provide adequate guidance regarding the independence of accountants who audit employee benefit plans to meet the needs of plan officials, participants and beneficiaries, accountants, and other affected parties. Given the changes that have taken place with respect to employee benefit plans and auditing practices and standards, as well as changes in the industry since the issuance of the guidelines in Interpretive Bulletin 75–9, EBSA is inviting interested persons to submit written comments and suggestions concerning whether and to what extent the current guidelines should be modified.

In order to assist interested parties in responding, this document contains a list of specific questions. The Department recognizes that these questions may not address all issues relevant to the independence of accountants who audit employee benefit plans. Accordingly, interested parties are invited to submit comments on other issues relating to Interpretive Bulletin 75–9 that they believe are pertinent to the Department's consideration of new or additional independence guidelines.

1. Should the Department adopt, in whole or in part, current rules or guidelines on accountant independence of the SEC, AICPA, GAO or other governmental or nongovernmental entity? If the Department were to adopt a specific organization's rules or guidelines, what adjustments would be needed to reflect the audit requirements for or circumstances of employee benefit plans under ERISA?

2. Should the Department modify, or otherwise provide guidance on, the prohibition in Interpretive Bulletin 75–9 on an independent accountant, his or her firm, or a member of the firm having a ''direct financial interest'' or a ''material indirect financial interest'' in a plan or plan sponsor? For example, should the Department issue guidance that clarifies whether, and under what circumstances, financial interests held by an accountant's family members are deemed to be held by the accountant or his or her accounting firm for independence purposes? If so, what familial relationships should trigger the imposition of ownership attribution rules? Should the ownership attribution rules apply to all members of the accounting firm retained to perform the audit of the plan or should it be restricted to individuals who work directly on the audit or may be able to influence the audit?

3. Should the Department issue guidance on whether, and under what circumstances, employment of an accountant's family members by a plan or plan sponsor that is a client of the accountant or his or her accounting firm impairs the independence of the accountant or accounting firm?

4. Interpretive Bulletin 75–9 states that an accountant will not be considered independent with respect to a plan if the accountant or member of his or her accounting firm maintains financial records for the employee benefit plan. Should the Department define the term ''financial records'' and provide guidance on what activities would constitute ''maintaining'' financial records. If so, what definitions should apply?

5. Should the Department define the terms ''promoter,'' ''underwriter,'' ''investment advisor,'' ''voting trustee,'' ''director,'' ''officer,'' and ''employee of the plan or plan sponsor,'' as used in Interpretive Bulletin 75–9? Should the Department include and define additional disqualifying status positions in its independence guidelines? If so, what positions and how should they be defined?

6. Interpretive Bulletin 75–9 defines the term ''member of an accounting firm'' as all partners or shareholder employees in the firm and all professional employees participating in the audit or located in an office of the firm participating in a significant portion of the audit. Should the Department revise and update the definition of ''member?'' If so, how should the definition be revised and updated?

7. What kinds of nonaudit services are accountants and accounting firms engaged to provide to the plans they audit or to the sponsor of plans they audit? Are there benefits for the plan or plan sponsor from entering into agreements to have the accountant or accounting firm provide nonaudit services and also perform the employee benefit plan audit? If so, what are the benefits? Should the Department issue guidance on the circumstances under which the performance of nonaudit services by accountants and accounting firms for the plan or plan sponsor would be treated as impairing an accountant's independence for purposes of auditing and rendering an opinion on the financial information required to be included in the plan's annual report? If so, what should the guidance provide?

8. Interpretive Bulletin 75–9 requires an auditor to be independent during the period of professional engagement to examine the financial statements being reported, at the date of the opinion, and during the period covered by the financial statements. Should the Department change the Interpretive Bulletin to remove or otherwise provide exceptions for ''the period covered by the financial statements'' requirement? For example, should the requirement be changed so that an accountant's independence would be impaired by a material direct financial interest in the plan or plan sponsor during the period covered by the financial statements rather than any direct financial interest?

9. Should there be special provisions in the Department's independence guidelines for plans that have audit committees that hire and monitor an auditor's independence, such as the audit committees described in the Sarbanes-Oxley Act applicable to public companies?

10. What types and level of fees, payments, and compensation are accountants and accounting firms receiving from plans they audit and sponsors of plans they audit for audit and nonaudit services provided to the plan? Should the Department issue

[3] Information about AICPA's standards is available at *www.aicpa.org/about/code/index.html.*

[4] See section 29.10(a)(5), (6), and (7) of New York State's Education Department's Office of Profession's Rules of the Board of Regents (Special provisions for the profession of public accountancy) (*www.op.nysed.gov/part29.htm#cpa*).

guidance regarding whether receipt of particular types of fees, such as contingent fees and other fees and compensation received from parties other than the plan or plan sponsor, would be treated as impairing an accountant's independence for purposes of auditing and rendering an opinion on the financial information required to be included in the plan's annual report?

11. Should the Department define the term ''firm'' in Interpretive Bulletin 75–9 or otherwise issue guidance on the treatment of subsidiaries and affiliates of an accounting firm in evaluating the independence of an accounting firm and members of the firm? If so, what should the guidance provide regarding subsidiaries and affiliates in the evaluation of the independence of an accountant or accounting firm?

12. Should the Department's independence guidance include an ''appearance of independence'' requirement in addition to the requirement that applies by reason of the ERISA requirement that the accountant perform the plan's audit in accordance with GAAS?

13. Should the Department require accountants and accounting firms to have written policies and procedures on independence which apply when performing audits of employee benefit plans? If so, should the Department require those policies and procedures be disclosed to plan clients as part of the audit engagement?

14. Should the Department adopt formal procedures under which the Department will refer accountants to state licensing boards for discipline when the Department concludes an accountant has conducted an employee benefit plan audit without being independent?

15. Should accountants and accounting firms be required to make any standard disclosures to plan clients about the accountant's and firm's independence as part of the audit engagement? If so, what standard disclosures should be required?

Signed at Washington, DC, this 5th day of September 2006.

Ann L. Combs,

Assistant Secretary, Employee Benefits Security Administration.

[FR Doc. E6–14913 Filed 9–8–06; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA–148–FOR]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; extension of comment period and notice of hearing.

SUMMARY: We are reopening the public comment period on the proposed Pennsylvania Regulatory Program rule published on July 31, 2006. The comment period is being reopened in order to afford the public more time to comment and allow enough time to hold a public hearing which has been requested by several individuals. We are also notifying the public of the date, time and location for the public hearing.

DATES: Comments on the proposed rule must be received on or before 4 p.m., local time on September 28, 2006. The public hearing will be held on Thursday, September 21, 2006, at 7 p.m. local time.

ADDRESSES: You may submit written or electronic comments identified by PA–148, by any of the following methods:

- *E-Mail: grieger@osmre.gov.* Include docket number PA–148–FOR in the subject line of the message.
- *Mail/Hand-Delivery/Courier:* George Rieger, Director, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, 415 Market Street, Room 304, Harrisburg, Pennsylvania 17101
- *Federal e-Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

For detailed instructions on submitting comments and additional information on the rulemaking process, see ''III. Public Comment Procedures'' in the **SUPPLEMENTARY INFORMATION** section of the proposed rule published on July 31, 2006.

Public hearing: The public hearing will be held at The Days Inn, located at 3620 Route 31, Donegal, Pennsylvania 15628, telephone: 724–593–7536, on September 21, 2006, at 7 p.m. local time.

FOR FURTHER INFORMATION CONTACT: George Rieger, Director, Pittsburgh Field Division, Telephone: (717) 782–4036, e-mail: *grieger@osmre.gov.*

SUPPLEMENTARY INFORMATION: On July 31, 2006 (71 FR 43087), we published a proposed rule that would revise the Pennsylvania Regulatory Program. The revisions would address blasting for the development of shafts for underground mines and make administrative changes to regulations relating to blasting in 25 Pa. Code Chapters 87, 88, 89 and 210. Specifically, the proposed changes would: (1) Clarify that the use of explosives in connection with the construction of a mine opening for an underground coal mine is a surface mining activity subject to the applicable requirements in Chapters 87 or 88 and that the person conducting the blasting activity must possess a blaster's license; (2) change the scheduling requirements applicable to the use of explosives for constructing openings for underground coal mines and changes to the requirements for protective measures to be taken when surface coal mine blasting is in proximity to a public highway or an entrance to a mine; and (3) add a category for mine opening blasting to the classifications of blaster's licenses.

We have received several requests for a public hearing on the proposed rule. We are extending the public comment period in order to afford the public more time to comment and allow enough time to schedule and hold the hearing. The date, time, and location for the public hearing may be found under **DATES** and **ADDRESSES** above.

The hearings will be open to anyone who would like to attend and/or testify. The primary purpose of the public hearing is to obtain your comments on the proposed rule so that we can prepare a complete and objective analysis of the proposal. The purpose of the hearing officer is to conduct the hearing and receive the comments submitted. Comments submitted during the hearing will be responded to in the preamble to the final rule, not at the hearing. We appreciate all comments but those most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to and analysis of the Surface Mining Control and Reclamation Act of 1977, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data, technical literature, or relevant publications.

At the hearing, a court reporter will record and make a written record of the statements presented. This written record will be made part of the administrative record for the rule. If you have a written copy of your testimony, we encourage you to give us a copy. It will assist the court reporter in preparing the written record. Any disabled individual who needs

reasonable accommodation to attend the hearing is encouraged to contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 30 CFR Part 938

Intergovernmental relations, Surface mining, Underground mining.

Dated: August 23, 2006.

Michael K. Robinson,

Acting Regional Director, Appalachian Region.

[FR Doc. E6–14756 Filed 9–8–06; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD5–06–086]

RIN 1625–AA09

Drawbridge Operation Regulations; Darby Creek, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to change the operating regulations for the Consolidated Rail Corporation (CONRAIL) Railroad Bridge, at mile 0.3, across Darby Creek in Essington, Pennsylvania. The proposal would allow the bridge to be left in the open-to-navigation position from April 1 through October 31 of every year. The bridge would only close for the passage of trains and to perform periodic maintenance. From November 1 to March 31, the bridge would open on signal, if at least 24 hours notice is given by calling (856) 231–7088 or (856) 662–8201.

DATES: Comments and related material must reach the Coast Guard on or before November 13, 2006.

ADDRESSES: You may mail comments and related material to Commander (dpb), Fifth Coast Guard District, Federal Building, 1st Floor, 431 Crawford Street, Portsmouth, VA 233704–5004. The Fifth Coast Guard District maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at Commander (dpb), Fifth Coast Guard District between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, at (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking CGD05–06–086, indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like a return receipt, please enclose a stamped, self-addressed postcard or envelope. We will consider all submittals received during the comment period. We may change this proposed rule in view of them.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for a meeting by writing to Commander (dpb), Fifth Coast Guard District at the address under **ADDRESSES** explaining why one would be beneficial. If we determine that one would aid this rulemaking, we will hold one at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

CONRAIL owns and remotely operates the railroad drawbridge across Darby Creek, at mile 0.3, located in Essington, Pennsylvania. The current operating regulations set out in 33 CFR 117.903 requires that from May 15 through October 15, the draw be left in the open position at all times and will only be lowered for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part. From October 16 through May 14, the draw shall open on signal if at least 24 hours notice is given by telephone at (856) 231–7088 or (856) 662–8201. Operational information will be provided 24 hours a day at the same telephone numbers.

The CONRAIL Railroad Bridge, a bascule-type drawbridge, has a vertical clearance in the closed position to vessels of approximately three feet above mean high water; and unlimited vertical clearance in the open-to-navigation position.

The Ridley Township Municipal Marina Authority has requested a change to the operating regulations for the Railroad Bridge, due to increased marine traffic under the bridge from April 1 to October 31. CONRAIL has agreed to modify the operating regulations of the drawbridge to accommodate additional vessel traffic.

Discussion of Proposed Rule

The Coast Guard proposes to amend 33 CFR 117.903(a), which governs the CONRAIL railroad drawbridge across Darby Creek, at mile 0.3 in Essington, Pennsylvania, by amending paragraphs (a)(3) and (a)(13). From April 1 through October 31, the bridge would be left in the open position and would only close for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part. From November 1 to March 31, the draw of the CONRAIL Railroad Bridge need only open on signal if at least 24 hours notice is given by calling (856) 231–7088 or (856) 662–8201. Operational information will be provided 24 hours a day by telephone at (856) 231–7088 or (856) 662–8201, respectively.

Regulatory Evaluation

This proposed rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS).

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under the regulatory policies and procedures of DHS is unnecessary. We reached this conclusion based on the fact CONRAIL, the only known land user of the bridge, has agreed to the change in the operating regulations.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this proposed rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reason. This proposed rule will have not impact on any small entities because CONRAIL, the only known land user of the bridge, has agreed to the change in the operating regulations.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking process.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact Waverly W. Gregory, Jr., Bridge Administrator, Fifth Coast Guard District, (757) 398–6222. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This proposed rule would call for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520.).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 or more in any one year. Though this proposed rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This proposed rule would not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminates ambiguity, and reduce burden.

Protection of Children

We have analyzed this proposed rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD, and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2–1, paragraph (32)(e), of the Instruction, from further environmental documentation. Under figure 2–1, paragraph (32)(e), of the Instruction, an ''Environmental Analysis Check List'' is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATIONS REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1(g); Section 117.255 also issued under authority of Public Law 102–587, 106 Stat. 5039.

2. Section 117.903 is amended by revising paragraphs (a)(3) and (a)(13) to read as follows:

§ 117.903 Darby Creek.

(a) * * *

(3) From April 1 through October 31, the draw shall be left in the open position at all times and will only be lowered for the passage of trains and to perform periodic maintenance authorized in accordance with subpart A of this part.

* * * * *

(13) From November 1 through March 31, the draw shall open on signal if at least 24 hours notice is given by telephone at (856) 231–7088 or (856) 662–8201. Operational information will be provided 24 hours a day by telephone at (856) 231–7088 or (856) 662–8201.

* * * * *

Dated: August 23, 2006.

L.L. Hereth,

Rear Admiral, U. S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. E6–14983 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 355

[EPA–HQ–SFUND–2005–0520; FRL–8217–5]

RIN 2050–AG32

Reportable Quantity Adjustment for Isophorone Diisocyanate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to adjust the reportable quantity (RQ) for Isophorone Diisocyanate (IPDI). Reportable quantities for many of the Extremely Hazardous Substances (EHSs) under the Emergency Planning and Community Right-to-Know Act (EPCRA) were adjusted to their threshold planning quantities (TPQ) in a final rule on May 7, 1996. On September 8, 2003, EPA modified the TPQ for IPDI to 500 pounds. However, EPA inadvertantly omitted an RQ adjustment for this substance. Therefore, EPA is now proposing to adjust the RQ for IPDI to be 500 pounds.

In the ''Rules and Regulations'' section of the **Federal Register**, we are revising the RQ for Isophorone Diisocyanate to 500 pounds without prior proposal because we view the revision as noncontroversial and anticipate no adverse comment. We have explained our reasons for this approach in the preamble to the direct final rule.

If we receive adverse comment on this revision, however, we will withdraw this direct final action and it will not take effect. We will address all public comments in a subsequent final rule based on this proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting on any amendment must do so at this time.

DATES: Comments must be received on or before October 11, 2006.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–SFUND–2005–0520, by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail: superfund.docket@epa.gov*.
3. *Fax*: (202) 566–0224.
4. *Mail*: Superfund Docket, Environmental Protection Agency, Mailcode: 5305T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
5. *Hand Delivery*: Superfund Docket, EPA Docket Center, 1301 Constitution Avenue, NW., EPA West Building, Room B–102, Washington DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–SFUND–2005–0520. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Superfund Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Superfund Docket is (202) 566–0276). This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

Note: The EPA Docket Center suffered damage due to flooding during the last week of June 2006. The Docket Center is continuing to operate. However, during the cleanup, there will be temporary changes to Docket Center telephone numbers, addresses, and hours of operation for people who wish to make hand deliveries or visit the Public Reading Room to view documents. Consult EPA's **Federal Register** notice at 71 FR 38147 (July 5, 2006) or the EPA Web site at *http://www.epa.gov/epahome/dockets.htm* for current information on docket operations, locations and telephone numbers. The Docket Center's mailing address for U.S. mail and the procedure for submitting comments to *www.regulations.gov* are not affected by the flooding and will remain the same.

FOR FURTHER INFORMATION CONTACT: Sicy Jacob, Office of Emergency Management, 5104A, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington DC 20004; telephone number: (202) 564–8019; fax number: (202) 564–2620; e-mail address: *jacob.sicy@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action applies to any facility handling Isophorone Diisocyanate.

B. What Should I Consider as I Prepare My Comments for EPA?

Submitting CBI. Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD ROM that you mail to EPA, mark the outside of the disk or CD ROM as CBI and then identify electronically within the disk or CD ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

Tips for Preparing Your Comments. When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- Make sure to submit your comments by the comment period deadline identified.

Dated: August 31, 2006.

Stephen L. Johnson,

Administrator.

[FR Doc. E6–14843 Filed 9–8–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AU52

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Contiguous United States Distinct Population Segment of the Canada Lynx

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period, notice of availability of draft economic analysis and draft environmental assessment, and amended Required Determinations.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period on the proposal to designate critical habitat for the Contiguous United States Distinct Population Segment of the Canada lynx (*Lynx canadensis*), the availability of the draft economic analysis and draft environmental assessment of the proposed designation of critical habitat, and an amended Required Determinations section of the proposal. The draft economic analysis estimates the potential total future costs to range from $175 million to $889 million in undiscounted dollars over the next 20 years. Discounted future costs are estimated to be from $125 million to $411 million over 20 years ($8.38 million to $27.6 million annually) using a 3 percent discount rate, or $99.9 million to $259 million over 20 years ($9.43 million to $24.4 million annually) using a 7 percent discount rate. The amended Required Determinations section provides our determination concerning compliance with applicable statues and Executive Orders that we have deferred until the information from the draft economic analysis of this proposal was available. We are reopening the comment period to allow all interested parties to comment simultaneously on the proposed rule, the associated draft economic analysis and draft environmental assessment, and the amended Required Determinations section.

DATES: We will accept public comments until October 11, 2006.

ADDRESSES: Written comments and materials may be submitted to us by any one of the following methods:

(1) *E-mail:* You may send comments by electronic mail (e-mail) to *fw6_lynx@fws.gov.* For directions on how to submit e-mail comments, see the ''Public Comments Solicited'' section.

(2) *Mail or hand delivery/courier:* You may submit written comments and information to Field Supervisor, Montana Ecological Services Field Office, 585 Shepard Way, Helena, MT, 59601.

(3) *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

FOR FURTHER INFORMATION CONTACT: Lori Nordstrom, Montana Ecological Services Field Office, at the address listed in **ADDRESSES** (telephone, 406–449–5225 extension 208).

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We will accept written comments and information during this reopened comment period. We solicit comments on the original proposed critical habitat designation for the Canada lynx (lynx), published in the **Federal Register** on November 9, 2005 (70 FR 68294), the clarification of the proposed critical habitat, published in the **Federal Register** on February 16, 2006 (71 FR 8258), on our draft economic analysis of the proposed designation, and on our draft environmental assessment of the proposed designation. We particularly seek comments concerning:

(1) The reasons any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act, including whether it is prudent to designate critical habitat;

(2) Specific information on the amount and distribution of lynx habitat in the contiguous United States, and what occupied habitat has features that are essential to the conservation of the species and why and what unoccupied habitat is essential to the conservation of the species and why;

(3) Comments or information that may assist us with identifying or clarifying the Primary Constituent Elements (PCEs);

(4) Land use designations and current or planned activities in areas proposed as critical habitat and their possible impacts on proposed critical habitat;

(5) Any foreseeable economic, national security, or other potential impacts resulting from the proposed designation and, in particular, any impacts on small entities in timber activities, residential and commercial development, recreation, and mining;

(6) As discussed in this proposed rule, we are considering whether some of the lands we have identified as having features essential for the conservation of the lynx should not be included in the final designation of critical habitat if,

prior to the final critical habitat designation, they are covered by final management plans that incorporate the conservation measures for the lynx (*i.e.*, the Lynx Conservation Assessment and Strategy (LCAS) (Ruediger *et al.* 2000), or comparable). In particular, seven National Forests and one Bureau of Land Management (BLM) district are in the process of revising or amending their Land and Resource Management Plans (LRMP) to provide measures for lynx conservation. It is anticipated that all of these plans will be complete prior to promulgation of the final critical habitat designation. As a result, all National Forest and BLM plans would have measures that provide for conservation of lynx, and consequently will not be in need of special management or protection.

Currently, National Forests that have not revised or amended their LRMPs operate under a Conservation Agreement with the Service in which the parties agree to take measures to reduce or eliminate adverse effects or risks to lynx and its occupied habitat pending amendments to LRMPs. The LCAS is a basis for implementing this Agreement.

In addition, we will be evaluating the adequacy of existing management plans to conserve lynx on lands that are designated wilderness areas or National Parks, as discussed in this proposed rule.

We specifically solicit comment on whether such areas meet the definition of critical habitat based on:

(A) Whether these areas contain features essential to the conservation of the lynx;

(B) The adequacy of these management plans or the Conservation Agreement to provide special management and protection to lynx habitat;

Any of these lands identified above may, if appropriate, be included in the final critical habitat designation, even if not proposed for designation in this notice.

(7) Our proposal to not include tribal lands in the Maine and Minnesota units under the Secretarial Order Number 3206. The size of the individual reservation lands in the Maine and Minnesota units is relatively small. As a result, we believe conservation of the lynx can be achieved by limiting the designation to the other lands in the proposed units.

(8) Whether lands in three areas are essential for the conservation of the species and the basis for why they might be essential. These areas are: (a) The Greater Yellowstone Ecosystem (Wyoming, Montana, and Idaho); (b) the ''Kettle Range'' in Ferry County, Washington; and (c) the Southern Rocky Mountains,

(9) How the proposed boundaries of critical habitat units could be refined to more closely conform to the boreal forest types occupied by lynx. Maps that accurately depict the specific vegetation types on all land ownerships were not readily available. Additionally, even if accurate, detailed vegetation maps were available, we were unsure how to delineate and describe critical habitat boundaries that solely encompassed lands containing the features essential to the conservation of the lynx.

(10) Whether our approach to designating critical habitat could be improved or modified in any way to provide for greater public participation and understanding, or to assist us in accommodating public concerns and comments.

(11) Any foreseeable environmental impacts directly or indirectly resulting from the proposed designation of critical habitat;

(12) Whether the economic analysis identifies all State and local costs attributable to the proposed critical habitat, and information on costs that have been inadvertently overlooked;

(13) Whether the economic analysis makes appropriate assumptions regarding current practices and likely regulatory changes imposed as a result of the designation of critical habitat;

(14) Whether the economic analysis correctly assesses the effect on regional costs associated with land- and water-use controls that derive from the designation;

(15) Whether the critical habitat designation will result in disproportionate economic impacts to specific areas that should be evaluated for possible exclusion from the final designation per our discretion under section 4(b)(2) of the Act. We are specifically seeking comment along with additional information on the estimated costs, how these estimated costs are distributed within such location, and whether we should exclude all or a portion of a unit;

(16) Whether the economic analysis appropriately identifies all costs that could result from the designation;

(17) As noted in the draft economic analysis, we did not estimate the potential economic impacts for several specific land-use categories for two reasons, first because we are unsure of how certain conservation guidelines for the lynx may be applied and second, because we are uncertain as to how we should assume development will occur. We believe that we have three options:

a. Apply potential economic impacts equally across all land-uses assuming all zoned development will occur. For example, the Lynx Conservation Assessment and Strategy allows no more than 10 percent of habitat be lost to the lynx, in which case, we would assume that 90 percent of the lands zoned for development would not be available for anything other than lynx habitat and identify any economic losses identified with those activities;

b. Assume that the 10 percent limitation on habitat loss will be calculated across the entire range of the lynx and that habitat losses will be concentrated in the highest economic value areas and that lower economic value areas will be preserved as habitat; or

c. Focus potential economic impacts in areas where major economic development is projected in order to maximize the amount of habitat protected for lynx. This approach results in the highest economic cost as most areas zoned for development would be unable to be developed.

Please provide comment on which approach is the most appropriate. Please reference page 3–12 of the draft economic analysis for further clarification of conservation guidelines.

(18) The Lynx Conservation Assessment and Strategy (LCAS) was developed for conservation of lynx and lynx habitat on Federal lands particularly for the U.S. Forest Service and Bureau of Land Management. Although developed for public lands, it represents the best available scientific information. Should the Service assume that the requirements of the LCAS management guidelines will be applied to private lands, and base the economic cost on that approach? If not, what standard should be used to measure the potential economic impacts of this designation on affected private landowners?

(19) Private timber companies may also be subject to consultation on critical habitat or face impacts from consultation or mitigation based on their interaction with Federal agencies. For these reasons, we are requesting comments from any potentially affected small businesses involved in timber activities about the impacts resulting from the proposed designation of critical habitat. How will your small business be affected by this critical habitat designation? What are the estimated cost impacts of this proposed designation to your small business? and

(20) Whether the benefits of exclusion in any particular area outweigh the benefits of inclusion under Section 4(b)(2) of the Act.

All previous comments and information submitted during the initial comment periods on the proposed rule need not be resubmitted. If you wish to comment, you may submit your comments and materials concerning this proposal by any one of several methods (see **ADDRESSES** section). Our final designation of critical habitat for the lynx will take into consideration all comments and any additional information received during all comment periods. On the basis of public comment on the draft economic analysis, the critical habitat proposal, and the final economic analysis, we may during the development of our final determination find that areas proposed are not essential, are appropriate for exclusion under section 4(b)(2) of the Act, or not appropriate for exclusion.

Please submit electronic comments in an ASCII file format and avoid the use of special characters and encryption. Please also include ''Attn: RIN 1018–AU52'' and your name and return address in your e-mail message. If you do not receive a confirmation from the system that we have received your e-mail message, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. We will not consider anonymous comments and we will make all comments available for public inspection in their entirety. Comments and materials received, as well as supporting information used in preparation of the proposed critical habitat designation, will be available for public inspection, by appointment, during normal business hours at the Montana Ecological Services Field Office at the address listed under **ADDRESSES.**

You may obtain copies of the proposed rule, draft economic analysis, and draft environmental assessment by mail or by visiting our Web site at *http://mountain-prairie.fws.gov/species/mammals/lynx/criticalhabitat.htm.* In the event that our Internet connection is not functional, please obtain copies of documents directly from the Montana Ecological Services Field Office.

Background

The lynx generally inhabits cold, moist boreal forests in the contiguous United States. On November 9, 2005, we published a proposed rule in the **Federal Register** (70 FR 68294) to designate approximately 18,031 square miles (mi^2) (46,699 square kilometers (km^2)) as critical habitat for the lynx. The proposed critical habitat includes four units in the States of Idaho, Maine, Minnesota, Montana, and Washington. The original comment period on the proposed critical habitat rule closed on February 7, 2006. On February 16, 2006, we published a notice in the **Federal Register** (71 FR 8258) to reopen the public comment period and clarify the proposed designation; this second comment period closed on April 30, 2006.

Critical habitat is defined in section 3 of the Act as the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features essential to the conservation of the species and that may require special management considerations or protection, and specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species. If the proposed rule is made final, section 7 of the Act will prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency. Federal agencies proposing actions affecting areas designated as critical habitat must consult with us on the effects of their proposed actions, pursuant to section 7(a)(2) of the Act.

Draft Economic Analysis

Section 4(b)(2) of the Act requires that we designate or revise critical habitat based upon the best scientific data available, after taking into consideration the economic impact, impact on national security, or any other relevant impact of specifying any particular area as critical habitat. We have prepared a draft economic analysis of the November 9, 2005 (70 FR 68294), proposed designation of critical habitat for the lynx.

The draft economic analysis considers the potential economic effects of actions relating to the conservation of the lynx including costs associated with sections 4, 7, and 10 of the Act, and including those attributable to designating critical habitat. The draft analysis considers both economic efficiency and distributional effects. In the case of habitat conservation, efficiency effects generally reflect the ''opportunity costs'' associated with the commitment of resources to comply with habitat protection measures (*e.g.*, lost economic opportunities associated with restrictions on land use).

The draft analysis also addresses how potential economic impacts are likely to be distributed, including an assessment of any local or regional impacts of habitat conservation and the potential effects of conservation activities on small entities and the energy industry. This information can be used by decision-makers to assess whether the effects of the designation might unduly burden a particular group or economic sector. Finally, the draft analysis looks retrospectively at costs that have been incurred since the date the lynx was listed as threatened in 2000, and considers those costs that may occur in the 20 years following a designation of critical habitat.

Costs related to conservation activities for the proposed designation of critical habitat for lynx pursuant to sections 4, 7, and 10 of the Act are estimated to be approximately $175 to $889 million over 20 years in undiscounted 2006 dollars. Discounted future costs are estimated to be from $125 million to $411 million over 20 years ($8.38 million to $27.6 million annually) using a 3 percent discount rate, or $99.9 million to $259 million over 20 years ($9.43 million to $24.4 million annually) using a 7 percent discount rate.

We solicit data and comments from the public on the draft economic analysis, as well as on all aspects of the proposal to designate critical habitat. We may revise the proposal, or its supporting documents, to incorporate or address new information received during the comment period. In particular, we may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species.

National Environmental Policy Act

The draft environmental assessment (EA) presents the purpose of and need for critical habitat designation, the Proposed Action and alternatives, and an evaluation of the direct, indirect, and cumulative effects of the alternatives pursuant to the requirements of the National Environmental Policy Act of 1969 (NEPA) as implemented by the Council on Environmental Quality regulations (40 CFR 1500 *et seq.*) and according to the Department of Interior NEPA procedures. The scope of the EA includes issues and resources within the contiguous United States range of the lynx in portions of Maine, Minnesota, Montana, Idaho, and Washington as well as areas with lynx habitat in Colorado and Wyoming not included in the proposed designation of critical habitat for the lynx.

The EA will be used by the Service to decide whether or not critical habitat will be designated as proposed, if the Proposed Action requires refinement, or if further analyses are needed through preparation of an environmental impact statement (EIS). If the Proposed Action is selected as described, or with minimal changes, and no further environmental analyses are needed, then a Finding of No Significant Impact (FONSI) would be the appropriate conclusion of this process. A FONSI would then be prepared for the EA.

Required Determinations—Amended

In our November 9, 2005, proposed rule (70 FR 68294), we indicated that we would be deferring our determination of compliance with several statutes and Executive Orders until the information concerning potential economic impacts of the designation and potential effects on landowners and stakeholders was available in the draft economic analysis. Those data are now available for our use in making these determinations. In this notice we are affirming the information contained in the proposed rule concerning Executive Order 13132 and Executive Order 12988; the Paperwork Reduction Act; the National Environmental Policy Act; and the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951). Based on the information made available to us in the draft economic analysis, we are amending our Required Determinations, as provided below, concerning Executive Order 12866 and the Regulatory Flexibility Act, Executive Order 13211, Executive Order 12630, and the Unfunded Mandates Reform Act.

Regulatory Planning and Review

In accordance with Executive Order 12866, this document is a significant rule because it may raise novel legal and policy issues. Based on our draft economic analysis of the proposed designation of critical habitat for the lynx, costs related to conservation activities for lynx pursuant to sections 4, 7, and 10 of the Act are estimated to be approximately $175 to $889 million over 20 years in undiscounted 2006 dollars. Discounted future costs are estimated to be from $125 million to $411 million over 20 years ($8.38 million to $27.6 million annually) using a 3 percent discount rate, or $99.9 million to $259 million over 20 years ($9.43 million to $24.4 million annually) using a 7 percent discount rate. Therefore, based on our draft economic analysis, it is not anticipated that the proposed designation of critical habitat for the lynx would result in an annual effect on the economy of $100 million or more or affect the economy in a material way. Due to the timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed the proposed rule or accompanying economic analysis.

Further, Executive Order 12866 directs Federal Agencies promulgating regulations to evaluate regulatory alternatives (OMB, Circular A–4, September 17, 2003). Pursuant to Circular A–4, once it has been determined that the Federal regulatory action is appropriate, the agency will need to consider alternative regulatory approaches. Since the determination of critical habitat is a statutory requirement pursuant to the Act, we must then evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts under section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat, provided that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or combination thereof, in a designation constitutes our regulatory alternative analysis.

Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*)

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et seq.), as amended by the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 802(2)) (SBREFA), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities.

According to the Small Business Administration (SBA), small entities include small organizations, such as independent nonprofit organizations and small governmental jurisdictions, including school boards and city and town governments that serve fewer than 50,000 residents, as well as small businesses (13 CFR 121.201). Small businesses include manufacturing and mining concerns with fewer than 500 employees, wholesale trade entities with fewer than 100 employees, retail and service businesses with less than $5 million in annual sales, general and heavy construction businesses with less than $27.5 million in annual business, special trade contractors doing less than $11.5 million in annual business, and agricultural businesses with annual sales less than $750,000. To determine if potential economic impacts to these small entities are significant, we considered the types of activities that might trigger regulatory impacts under this designation as well as types of project modifications that may result. In general, the term significant economic impact is meant to apply to a typical small business firm's business operations.

To determine if this proposed designation of critical habitat for lynx would affect a substantial number of small entities, we considered the number of small entities affected within particular types of economic activities (*e.g.*, timber, recreation, public and conservation land management, transportation, and mining). We considered each industry or category individually. In estimating the numbers of small entities potentially affected, we also considered whether their activities have any Federal involvement. Some kinds of activities are unlikely to have any Federal involvement and so will not be affected by the designation of critical habitat. Designation of critical habitat only affects activities conducted, funded, permitted, or authorized by Federal agencies; other activities are not affected by the designation.

If this proposed critical habitat designation is made final, Federal agencies must consult with us if their activities may affect designated critical habitat. Consultations to avoid the destruction or adverse modification of critical habitat would be incorporated into the existing consultation process. Private companies may also be subject to consultation or mitigation impacts.

Several of the activities potentially affected by lynx conservation efforts within the study area (timber, recreation, grazing) involve small businesses. Given the rural nature of the proposed designation, most of the potentially affected businesses in the affected regions are small.

Our draft economic analysis of this proposed designation evaluated the

potential economic effects on small business entities and small governments resulting from conservation actions related to the listing of this species and proposed designation of its critical habitat. We evaluated small business entities in the following categories: Timber activities; residential and commercial development; recreation; public lands management and conservation planning; transportation, utilities, and municipal activities; and mining operations. Based on our analysis, impacts associated with small entities are anticipated to occur to timber activities, recreation, public lands management, conservation planning, transportation, and mining. Because no information was available regarding how residential and commercial development may be affected by lynx conservation, the analysis does not quantify specific impacts to residential and commercial development but rather provides the full option value for development within the study area. Thus, residential and commercial development impacts to small entities are not addressed in the SBREFA screening analysis. We are seeking comments from potentially affected small entities involved in timber activities, residential and commercial development, recreation, and mining. The following is a summary of the information contained in the draft economic analysis:

(a) Timber Activities

According to the draft economic analysis, impacts on timberlands have historically resulted from implementation of lynx management plans and project modifications. The majority of forecast impacts on timber relate to potential restrictions on pre-commercial thinning, with nearly half of these impacts occurring on private timberland in Maine. The economic analysis applied two scenarios to bound the impacts resulting from potential changes to timber activities. Under Scenario 2, the upper bound, timber impacts range from $15.6 million (discounted at 7 percent) to $33.3 million (discounted at 3 percent) over 20 years. When compared to forestry-related earning across counties in the study area ($454 million in 2003), these potential losses are approximately 3 to 7 percent of total forestry-related earnings. Total forecast impacts to timber activities range from $117 million to $808 million over 20 years. Exhibits C–1 through C–4 of the economic analysis quantify the small timber companies that may be affected by the proposed rule. However, the draft economic analysis states that it is uncertain whether private timber companies will be affected by the designation of critical habitat. Government agencies, such as the U.S. Forest Service, are subject to critical habitat consultations.

(b) Residential and Commercial Development

Because specific information on how residential and commercial development projects would mitigate for impacts to lynx and its habitat is unknown, the draft economic analysis does not attempt to quantify the economic impacts of mitigating development activities. Instead, it presents the full value that may be derived from potential future development within the potential critical habitat. The total projected future development value of areas proposed for designation as critical habitat for the lynx is approximately $2.26 billion. Approximately 69.1 percent ($1.56 billion) of this is the value of future development in Minnesota (Unit 2); 25.7 percent ($579 million) of this is the value of future development in Maine (Unit 1), of which $1.57 million is proposed for exclusion; and 5.2 percent ($117 million) of this is the value of future development in Montana. Lands proposed for critical habitat in Washington are characterized by public lands managed for timber and recreation. As such, residential and commercial development is not considered to be a future land use, and the value of these lands for future development is considered to be negligible. Recognizing that approximately 80 percent of the projected value of potential future residential and commercial development within the area proposed as critical habitat consist of lands within Minnesota and recognizing the potential effects on landowners and development companies, we will consider this information pursuant to section 4(b)(2) during the development of the final designation.

No North American Industry Classification System (NAICS) code exists for landowners, and the Small Business Administration does not provide a definition of a small landowner. However, recognizing that it is possible that some of the landowners may be small businesses, this analysis provides information concerning the number of landowners potentially affected: An upward estimate of 38 in Maine, 53 in Minnesota, and 110 in Montana. It is possible that a portion of these affected landowners could be small businesses in the residential or commercial land development industry or could be associated businesses, such as builders and developers. Actual conservation requirements undertaken by an individual landowner will depend on how much of a parcel lies within or affects proposed critical habitat. Individual single-family home development has not historically been subject to consultation or habitat conservation requirements for lynx, although consultation could be required if Federal permits from the Army Corps of Engineers, Environmental Protection Agency, or Federal Emergency Management Agency are required.

For these reasons, we are requesting comments from any potentially affected small businesses involved in residential and commercial development activities, about the impacts resulting from the proposed designation of critical habitat. How will small businesses, such as landowners, builders or developers be affected by this critical habitat designation? The economic analysis presents the full potential development value of impacted lands within the potential critical habitat as a baseline, but does not provide a cost estimate. How could this estimate be refined to demonstrate how small businesses in the residential and commercial development field will be affected by this critical habitat designation? What would you suggest as another measure of these costs?

(c) Recreation

Recreational activities that have the potential to affect the lynx and its habitat include over-the-snow trails for snowmobiling and cross-country skiing, accidental trapping or shooting, and recreation area expansions such as ski resorts, campgrounds, or snowmobile areas. Total forecast costs to all recreation activities in areas proposed for designation are $1.05 to $3.46 million, or an annualized estimate of $57,600 to $178,000 (applying a 7 percent discount rate) or $54,500 to $175,000 (applying a 3 percent discount rate). Impacts to recreation activity forecast in the draft analysis include welfare impacts to individual snowmobilers; however, the level of participation is not expected to change. As no decrease in the level of snowmobiling activity is forecast, impacts to small businesses that support the recreation sector are not anticipated.

We are requesting comments from any potentially affected small businesses involved in recreation activities, about the impacts resulting from the proposed designation of critical habitat. What are the estimated cost impacts of this

proposed designation to your small business?

(d) Public lands management and conservation planning

The draft economic analysis estimates that total post-designation costs of lynx conservation efforts associated with public and conservation lands management in areas proposed for designation to be approximately $12.8 million over the next 20 years, or an annualized cost of $940,000 (present value applying a 7 percent discount rate) or $767,000 (applying a 3 percent discount rate). The majority of public lands are managed by Federal and State entities that do not qualify as small businesses. As such, designation of critical habitat for lynx is not anticipated to have a significant impact on a substantial number of small businesses involved in public lands management or conservation planning.

(e) Transportation, Utilities, and Municipal Activities

The draft economic analysis estimates that total post-designation costs resulting from lynx conservation efforts associated with transportation, utilities, and municipal activities for areas proposed for designation will range from $34.9 million to $55.1 million over the next 20 years, or an annualized value of $1.9 to 2.9 million (present value applying a 7 percent discount rate) or $1.8 to $2.8 million (present value applying a 3 percent discount rate). Of the total post-designation costs, approximately 71 percent are attributed to transportation activities, and 29 percent are attributed to utility and municipal activities. Impacts to transportation and municipal projects are expected to be borne by the Federal and State agencies undertaking lynx-related modifications to these types of projects, including the Federal Highway Administration, the Federal Emergency Management Agency, the U.S. Army Corps of Engineers, and State transportation departments. Since Federal and State entities do not qualify as small businesses, the designation of critical habitat for the lynx is not anticipated to have a significant impact on a substantial number of small businesses associated with transportation, utilities, and municipal activities.

Impacts to dam projects, including costs of remote monitoring for lynx that could be required for relicensing of dams, could be borne by the companies that own the dams. In particular, 14 dams in Minnesota and two in Maine are expected to consider lynx conservation at the time of relicensing. The economic analysis estimated costs of $13,000 to $18,000 to each of these 16 dam projects in 2025. Based on these small costs, we do not anticipate that this would be a significant impact to dam operators.

(f) Mining Operations

The draft economic analysis estimates total post-designation costs resulting from lynx conservation efforts associated with mining projects of approximately $430,000, or an annualized rate of $38,000 (present value applying a 7 percent discount rate) or $28,100 (present value applying a 3 percent discount rate). Unit 2 (Minnesota) is the only area of potential critical habitat for which future surface mining expansion and development projects have been identified; specifically, three new or expanded mining projects are forecast to occur on leased lands of Superior National Forest. The greatest impact estimated is $375,000 or an annualized impact of $33,100 for the East Reserve Mine, which has a total value of $819 million, which equates to less than a 1 percent annual impact to the mine relative to its total value. There is an uncertainty for realized impacts on the mining industry from lynx conservation activities.

We are requesting comments from any potentially affected small businesses involved in the mining industry, about the impacts resulting from the proposed designation of critical habitat. What are the estimated cost impacts of this proposed designation to your small business?

We evaluated small business entities relative to the proposed designation of critical habitat for the lynx to determine potential effects to these business entities and the scale of any potential impact. Based on our analysis, there are potential projected impacts associated with small entities in the areas of timber activities, recreation, public lands management, conservation planning, transportation, and mining. There is also a possibility of potential projected impacts to development activities. Due to the lack of information, the economic analysis for this critical habitat does not attempt to assign development impacts to specific small entities, rather leaving open the question of whether any small entities will be affected. We have outlined above potential projected future impacts to these entities resulting from conservation-related activities for the lynx, and asked potential affected small entities for input as to what the likely impacts will be for their industry sectors. We do, however, recognize that there may be disproportionate impact to certain sectors and geographic areas within lands proposed for designation. As such, we will more fully evaluate these potential impacts during the development of the final designation, and may, if appropriate, consider such lands for exclusion pursuant to section 4(b)(2) of the Act.

Executive Order 13211—Energy Supply, Distribution, and Use

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This proposed designation of critical habitat for the Canada lynx is considered a significant regulatory action under Executive Order 12866 due to it potentially raising novel legal and policy issues. OMB has provided guidance for implementing this Executive Order that outlines nine outcomes that may constitute ''a significant adverse effect'' when compared without the regulatory action under consideration. The draft economic analysis finds that none of these criteria are relevant to this analysis (refer to Appendix C of the draft economic analysis). Thus, based on the information in the draft economic analysis, energy-related impacts associated with lynx conservation activities within proposed critical habitat are not expected. As such, the proposed designation of critical habitat is not expected to significantly affect energy supplies, distribution, or use and a Statement of Energy Effects is not required.

Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501), the Service makes the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments,'' with the following two exceptions: It excludes ''a condition of federal assistance'' and ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under

entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. Non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat. However, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would critical habitat shift the costs of the large entitlement programs listed above on to State governments.

(b) The draft economic analysis discusses potential impacts of critical habitat designation for lynx on timber activities, development, recreation, public lands management and conservation planning, transportation, utilities, and municipal activities, and mining operations. The analysis estimates that annual costs of the rule could range from $175 million to $889 million in constant dollars over 20 years. Impacts are largely anticipated to affect timber management, with some effects on residential and commercial development, recreation, and transportation. Impacts on small governments are either not anticipated, or they are anticipated to be passed through to consumers. Consequently, for the reasons discussed above, we do not believe that the designation of critical habitat for lynx will significantly or uniquely affect small government entities. As such, a Small Government Agency Plan is not required.

Executive Order 12630—Takings

In accordance with Executive Order 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of proposing critical habitat for the lynx in a takings implications assessment. The takings implications assessment concludes that this proposed designation of critical habitat for the lynx does not pose significant takings implications.

Author

The primary authors of this notice are the staff of the Montana Ecological Services Field Office (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq*).

Dated: August 29, 2006.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 06–7579 Filed 9–6–06; 2:32 pm]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 71, No. 175

Monday, September 11, 2006

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Information Collection; Minority Farm Register

AGENCY: Farm Service Agency, USDA.

ACTION: Notice; request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Farm Service Agency (FSA) is seeking comments from all interested individuals and organizations on the extension with revision of a currently approved information collection for the Minority Farm Register. The Minority Farm Register is a voluntary register of minority farm and ranch operators, landowners, tenants and others with an interest in farming or agriculture. USDA's Office of Outreach uses the collected information to better inform minority farmers about USDA programs and services.

DATES: Comments must be received in writing on or before November 13, 2006 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Gypsy S. Banks, Assistant to the Administrator, Farm Service Agency, STOP 0503, 1400 Independence Avenue, SW., Washington, DC 20250–0503, and to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Gypsy S. Banks, Assistant to the Administrator, (202) 720–8453 and *gypsy.banks@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: USDA Minority Farm Register.

OMB Number: 0560–0231.

Expiration Date of Approval: April 30, 2007.

Type of Request: Extension with revision.

Abstract: The Minority Farm Register is a voluntary register of minority farm and ranch operators, landowners, tenants and others with an interest in farming or agriculture. The registrant's name, address, email, phone number, race, ethnicity, gender, farm location, and signature will be collected. The name, address, and signature are the only items required to register. Providing this information is completely voluntary. USDA's Office of Outreach will use this information to help inform minority farmers and ranchers about programs and services provided by USDA agencies.

The Minority Farm Register is maintained by FSA and jointly administered by FSA and USDA's Office of Outreach. Because USDA partners with community-based organizations, minority-serving educational institutions, and other groups to communicate USDA's program and services, the Office of Outreach may share information collected with these organizations for outreach purposes. The race, ethnicity, and gender of registrants may be used to provide information about programs and services that are designed for these particular groups. Information about the Minority Farm Register is available on the internet to ensure that the program is widely publicized and accessible to all.

Respondents: Individuals and households.

Estimated annual number of respondents: 5,000.

Estimated annual number of forms filed per person: Estimated average time to respond: 5 minutes (0.083 hours).

Estimated total annual burden hours: 415.

Comments are invited on (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission for OMB approval.

Signed at Washington, DC, on September 5, 2006.

Teresa C. Lasseter,

Administrator, Farm Service Agency.

[FR Doc. E6–14996 Filed 9–8–06; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Rural Business-Cooperative Service

Rural Utilities Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCIES: Rural Housing Service (RHS), Rural Business-Cooperative Service (RBS), and Rural Utilities Service (RUS) USDA.

ACTION: Proposed collection; Comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the above-named Agencies to request an extension for a currently approved information collection in support of debt settlement of Community Facilities and Direct Business Program Loans and Grants.

DATES: Comments on this notice must be received by November 13, 2006 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: For inquiries on the Information Collection Package, contact Brigitte Sumter, Regulations and Paperwork Management Branch, (202) 692–0042. For program content, contact Derek L. Jones, Senior Loan Specialist, Community Programs, RHS, USDA, 1400 Independence Ave., SW., Mail Stop 0787, Washington, DC 20250–0787, Telephone (202) 720–1504, E-mail *derek.jones@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: 7 CFR part 1956, subpart C—''Debt Settlement—Community and Business Programs.''

OMB Number: 0575–0124.

Expiration Date of Approval: January 31, 2007.

Type of Request: Extension of a currently approved information collection.

Abstract: The following Community and Direct Business Programs loans and grants are debt settled by this currently approved docket (0575–0124). The Community Facilities loan and grant program is authorized by Section 306 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926) to make loans to public entities, nonprofit corporations, and Indian tribes through the Community Facilities program for the development of essential community facilities primarily serving rural residents.

The Economic Opportunity Act of 1964, Title 3 (Pub. L. 88–452), authorizes Economic Opportunity Cooperative loans to assist incorporated and unincorporated associations to provide low-income rural families essential processing, purchasing, or marketing services, supplies, or facilities.

The Food Security Act of 1985, Section 1323 (Pub. L. 99–198), authorizes loan guarantees and grants to Nonprofit National Corporations to provide technical and financial assistance to for-profit or nonprofit local businesses in rural areas.

The Business and Industry program is authorized by Section 310 B (7 U.S.C. 1932) (Pub. L. 92.419, August 30, 1972) of the Consolidated Farm and Rural Development Act to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution abatement control.

The Consolidated Farm and Rural Development Act, Section 310 B(c) (7 U.S.C. 1932(c)), authorizes Rural Business Enterprise Grants to public bodies and nonprofit corporations to facilitate the development of private businesses in rural areas.

The Consolidated Farm and Rural Development Act, Section 310 B(f)(i) (7 U.S.C. 1932(c)), authorized Rural Cooperative Development Grants to nonprofit institutions for the purpose of enabling such institutions to establish and operate centers for rural cooperative development.

The purpose of the debt settlement function for the above programs is to provide the delinquent client with an equitable tool for the compromise, adjustment, cancellation, or charge-off of a debt owned to the Agency.

The information collected is similar to that required by a commercial lender in similar circumstances.

Information will be collected by the field offices from applicants, borrowers, consultants, lenders, and attorneys.

Failure to collect information could result in improper servicing of these loans.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 8 hours per response.

Respondents: Public bodies and nonprofit organizations.

Estimated Number of Respondents: 16.

Estimated Number of Responses per Respondent: 2.

Estimated Total Annual Burden on Respondents: 702 hours.

Estimated Number of Responses: 4.

Copies of this information collection can be obtained from Brigitte Sumter, Regulations and Paperwork Management Branch, (202) 692–0042.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Brigitte Sumter, Regulations and Paperwork Management Branch, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave., SW., Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: August 24, 2006.

Russell T. Davis,

Administrator, Rural Housing Service.

Dated: August 28, 2006.

Jackie J. Gleason,

Acting Administrator, Rural Business-Cooperative Service.

Dated: August 28, 2006.

James M. Andrew,

Administrator, Rural Utilities Service.

[FR Doc. 06–7573 Filed 9–8–06; 8:45 am]

BILLING CODE 3410–XV–P

BROADCASTING BOARD OF GOVERNORS

Meeting

Date and Time: Wednesday, September 13, 2006, 2:30–4:15 p.m.

Place: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20237.

Closed Meeting: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)). In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

Contact Person for More Information: Persons interested in obtaining more information should contact Carol Booker at (202) 203–4545.

Dated: September 6, 2006.

Carol Booker,

Legal Counsel.

[FR Doc. 06–7588 Filed 9–7–06; 10:58 am]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

(A–122–822)

Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, U.S. Department of Commerce.

SUMMARY: In response to timely requests, the U.S. Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain corrosion–resistant carbon steel flat products (CORE) from Canada for the period of review (POR) August 1, 2004

through July 31, 2005. The review covers two respondents, Dofasco Inc. and Sorevco and Company, Ltd. (collectively Dofasco), and Stelco Inc. (Stelco).

The Department preliminarily determines that Dofasco and Stelco made sales to the United States at less than normal value (NV). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of Dofasco and Stelco's merchandise during the period of review. The preliminary results are listed below in the section titled ''Preliminary Results of Review.''

EFFECTIVE DATE: September 11, 2006

FOR FURTHER INFORMATION CONTACT: Joshua Reitze or Douglas Kirby, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th & Constitution Avenue, NW, Washington, DC 20230; telephone: 202–482–0666 and 202–482–3782, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on CORE from Canada on August 19, 1993. *See Antidumping Duty Orders: Certain Corrosion–Resistant Carbon Steel Flat Products and Certain Cut–to-Length Carbon Steel Plate From Canada* , 58 FR 44162 (August 19, 1993), as amended by *Amended Final Determinations of Sales at Less Than Fair Value and Antidumping Orders: Certain Corrosion–Resistant Carbon Steel Flat Products and Certain Cut–To-Length Carbon Steel Plate From Canada*, 60 FR 49582 (September 26, 1995) (*Amended Final and Order*). On August 1, 2005, the Department published in the **Federal Register** a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on CORE from Canada. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 44085 (August 1, 2005). On August 31, 2005, the Department received a properly filed, timely request for an administrative review of Dofasco and Stelco from the United States Steel Corporation (USSC) (a petitioner in the original investigation), as well as from Dofasco, a producer/exporter of CORE from Canada. On September 28, 2005, the Department initiated a review of Dofasco and Stelco. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). On December 20, 2005, Dofasco withdrew its request for an administrative review for the current period of review; however, since petitioner had requested a review of Dofasco and Stelco, the Department is not rescinding the administrative review.

On October 26, 2005, the Department issued sections A through E of the questionnaire to Dofasco.[1] Dofasco submitted its section A response on December 22, 2005, and submitted its sections B through D response on January 17, 2006. The Department issued a section A through C supplemental questionnaire on April 28, 2006. On May 17, 2006, the Department issued its section D supplemental questionnaire. Dofasco submitted its sections A through C supplemental questionnaire response on May 25, 2006, and Dofasco submitted its section D supplemental response on June 14, 2006. On July 21, 2006, the Department issued a second supplemental questionnaire to Dofasco. On August 3, 2006, Dofasco submitted its response to the Department's second supplemental questionnaire.

On October 26, 2005, the Department issued sections A through E of the questionnaire to Stelco. Stelco submitted its section A questionnaire response on December 5, 2005, and its sections B through D response on December 20, 2005. On April 27, 2006, the Department issued its sections A through C supplemental questionnaire to Stelco. On May 18, 2006, the Department issued a section D supplemental questionnaire to Stelco. On May 11, 2006, Stelco submitted its response to the Department's sections A through C supplemental questionnaire. On June 1, 2006, Stelco submitted its response to the Department's section D supplemental questionnaire. On July 21, 2006, the Department issued a second supplemental questionnaire to Stelco. On July 28, 2006, Stelco submitted its response to the Department's second supplemental questionnaire.

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of the foreign like product and the constructed value of the merchandise under investigation. Section E requests information on further manufacturing.

On April 4, 2006, the Department extended the deadline for the preliminary results of this antidumping duty administrative review from May 3, 2006 to August 31, 2006. *See Corrosion–Resistant Carbon Steel Flat Products from Canada: Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 16761 (April 4, 2006).

Scope Of The Order

The product covered by the order is certain corrosion–resistant steel, and includes flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the U.S. Harmonized Tariff Schedule (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Although the HTSUS subheadings are provided for convenience and customs' purposes, the Department's written description of the merchandise under the order is dispositive.

Included in the order are corrosion–resistant flat–rolled products of non–rectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') – for example, products which have been beveled or rounded at the edges. Excluded from the order are flat–rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''),

or both chromium and chromium oxides (''tin–free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from the order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from the order are certain clad stainless flat–rolled products, which are three–layered corrosion–resistant carbon steel flat–rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat–rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

Analysis

Affiliation and Collapsing

For these preliminary results, we have collapsed Dofasco, Sorevco, and Do Sol Galva Ltd. (DSG) and treated them as a single respondent, as we have done in prior segments of the proceeding. *See Final Determinations of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products, Certain Cold–Rolled Carbon Steel Flat Products, Certain Corrosion–Resistant Carbon Steel Flat Products, and Certain Cut–to-Length Carbon Steel Plate From Canada*, 58 FR 37099, 37107 (July 9, 1993), for our analysis regarding collapsing Dofasco and Sorevco. There have been no changes to the pertinent facts such as, for example, ownership structure, that warrant reconsideration of our decisions to collapse these companies. As noted on page A–9 of Dofasco's Section A questionnaire response dated December 22, 2005, Sorevco still operates as a 50–50 joint venture between Dofasco and Ispat Sidbec.

DSG is a galvanizing line operated as a limited partnership between Dofasco and Arcelor. As in the prior review; 1) DSG remains a partnership between Dofasco (80 percent ownership interest), and the European steel producer Arcelor (20 percent ownership interest); 2) Dofasco continues to operate DSG, which is located at the Dofasco Hamilton plant, and to treat this line as its number five galvanizing line; and 3) all of the DSG production workers are still employed by Dofasco. *See* pages A–6 and A–9 of Dofasco's Section A questionnaire response dated December 22, 2005. For all intents and purposes, DSG is effectively another production line run on Dofasco's property. *See Certain Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Preliminary Results of Antidumping Duty Administrative Review*, 69 FR 55138, 55139 (September 13, 2004) (*Preliminary Results of 10th Review*) (unchanged in *Certain Corrosion–Resistant Carbon Steel Flat Products From Canada: Final Results of Antidumping Duty Administrative Review*, 70 FR 13458 (March 21, 2005) (*Final Results of 10th Review*)), for our analysis regarding collapsing DSG.

Consistent with past segments of this proceeding, in these preliminary results, we have not collapsed Dofasco and its toll producer DJ Galvanizing Ltd. Partnership (DJG) (formerly DNN Galvanizing Ltd. Partnership (DNN)). *See e.g , Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Preliminary Results of Antidumping Duty Administrative Review*, 70 FR 53621, 53622 (September 9, 2005) (*Preliminary Results of 11th Review*), unchanged in the *Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Final Results of Antidumping Duty Administrative Review*, 71 FR 13582 (March 16, 2006) (*Final Results of 11th Review*). There have been no material changes in the business relationship between Dofasco and DJG during this POR to warrant reconsideration of this finding. Therefore, for CORE that is processed by DJG before it is exported to the United States, we will, for assessment and cash deposit purposes, instruct CBP to: 1) apply Dofasco's rate on merchandise supplied by Dofasco, Sorevco, or DSG; 2) apply the company–specific rate on merchandise supplied by other previously reviewed companies; and 3) apply the ''all others'' rate for merchandise supplied by companies which have not been reviewed in the past.

Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by respondents that are covered by the description in the ''Scope of the Order'' section, above, and that were sold in the home market during the POR, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. In accordance with sections 771(16)(B) and (C) of the Act, where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's October 26, 2005 antidumping questionnaire.

Date of Sale

Based on our analysis of the questionnaire responses, we are using the same dates of sale that we have used in the past proceedings. *See, e.g., Final Results of 11th Review*. Neither Dofasco nor Stelco reported any changes in their sales processes that would warrant changing their reported dates of sale.

For a complete discussion of our date of sale analysis for Dofasco and Stelco, *see Memorandum from Douglas Kirby (AD/CVD Financial Analyst) through Thomas Gilgunn (Program Manager) to the File; Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Analysis of Dofasco Inc. (Dofasco) and Sorevco for the Preliminary Results*, (August 31, 2006) (*Dofasco Preliminary Analysis Memorandum*), and *Memorandum to the File, from Joshua Reitze through Thomas Gilgunn (Program Manager) re: Analysis of Stelco for the Preliminary Results*, dated August 31, 2006 (*Stelco Preliminary Analysis Memorandum*), on file in the Central Record Unit, room B–099 of the main Department of Commerce building (CRU).

Normal Value Comparisons

To determine whether sales of subject merchandise to the United States were made at less than NV, we compared the export price (EP) or the constructed export price (CEP) to NV, as described in the ''U.S. Price,'' and ''Normal Value'' sections of this notice in accordance with section 777A(d)(2) of the Act.

U.S. Price

In accordance with Section 772(a) of the Act, we used EP when the subject merchandise was first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, and CEP was not otherwise warranted by the facts on the record. Also, as discussed below, we conclude that certain Dofasco sales are EP, and that all of Stelco's sales are EP.

In accordance with Section 772(b) of the Act, we used CEP when the subject merchandise was first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter.

Dofasco

Dofasco reported four channels of distribution to the United States. *See* Dofasco's December 22, 2005 section A questionnaire response at A–18 through A–19. We have classified Dofasco's

Channel 1 (direct shipments) and 4 (direct shipments through commission agents) sales as EP sales. As in prior reviews, we find that Dofasco makes these sales directly to the unaffiliated customer in the United States without the involvement of any affiliated party in the United States (Channel 1) or makes the sale directly to an unaffiliated purchaser for exportation to the United States (Channel 4). Accordingly, we are treating Channel 1 and 4 sales as EP sales for Dofasco. *See, e.g.,Final Results of 11th Review*.

All of Dofasco's sales in the United States through its affiliate, Dofasco USA (DUSA), were reported as channel 2 (shipped directly to the U.S. customer) or channel 3 (shipped indirectly to the U.S. customer) sales. Dofasco reported its U.S. sales through DUSA to be CEP sales because they were made for the account of Dofasco by DUSA. *See* Dofasco's December 22, 2005 section A questionnaire response at A–18 through A–19. Therefore, consistent with our determination in prior reviews, we are classifying Dofasco's channels 2 and 3 sales as CEP sales. *See Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Final Results of Antidumping Duty Administrative Review*, 69 FR 2566 (January 16, 2004) (*Final Results of 9th Review*) and accompanying Issues and Decision Memorandum at *Comment 1*, and *Final Results of 10th Review* at *Comment 5*.

Stelco

We have classified all of Stelco's U.S. sales as EP sales. As in prior reviews, we find that Stelco makes these sales directly to the unaffiliated customer in the United States without the involvement of any affiliated party in the United States (Channel 1). *See Preliminary Results of 11th Review*, unchanged in the *Final Results of 11th Review*. Accordingly, we are treating these respective sales as EP sales for Stelco.

Calculation Of Export Price And Constructed Export Price

Dofasco's EP: The Department calculated Dofasco's starting price as its gross unit price to its unaffiliated U.S. customers, making adjustments where necessary for billing adjustments and early payment discounts pursuant to section 772(a) of the Act. Where applicable, the Department also made deductions for movement expenses (foreign inland freight, domestic brokerage, and international freight) pursuant to section 772(c) of the Act.

Dofasco's CEP: The Department calculated Dofasco's starting price as its gross unit price to its unaffiliated U.S. customers, making adjustments where necessary for billing adjustments and early payment discounts, pursuant to section 772(c)(1) of the Act. Where applicable, the Department made deductions for movement expenses (foreign inland freight, international freight, U.S. movement, U.S. customs duty and brokerage, and post–sale warehousing) in accordance with section 772(c)(2) of the Act and section 351.401(e) of the Department's regulations. In accordance with sections 772(d)(1) and (2) of the Act, we also deducted, where applicable, U.S. direct selling expenses, including warranty, credit expenses, U.S. commissions, and U.S. indirect selling expenses and U.S. inventory carrying costs incurred in the United States and Canada associated with economic activities in the United States. We also deducted CEP profit in accordance with section 772(d)(3) of the Act.

As in prior reviews, certain Dofasco sales have undergone minor further processing in the United States as a condition of sale. The Department has deducted the price charged to Dofasco by the unaffiliated contractor for this minor further processing from gross unit price to determine U.S. price, consistent with section 772(d)(2) of the Act. *See Certain Corrosion Resistant Carbon Steel Flat Products From Canada: Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 53105, 53106 (September 9, 2003), unchanged in *Final Results of 9th Review*, 69 FR 2566, and accompanying *Issues and Decision Memorandum* at *Comment 4*.

Stelco's EP: The Department calculated Stelco's starting price as its gross unit price to its unaffiliated U.S. customers, taking into account, where necessary, billing adjustments and early payment discounts, pursuant to section 772(a) of the Act. Where applicable, the Department made deductions from the starting price for movement expenses (foreign inland freight, domestic brokerage, and international freight) pursuant to section 772(c) of the Act.

Normal Value

Home Market Viability

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of each respondent's home market sales of the foreign like product to the volume of U.S. sales of subject merchandise. *See* section 773(a)(1) of the Act. Based on this comparison, we determined for both Dofasco and Stelco that the quantity of sales in their home market exceeded five percent of their sales of CORE to the United States. *See* section 351.404(b) of the Department's regulations. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities, in the ordinary course of trade, and, to the extent practicable, at the same level of trade (LOT) as the EP or CEP. *See* '' Level of Trade'' section below.

Affiliated Party Transactions and Arm's–Length Test

We used sales to affiliated customers in the home market only where we determined such sales were made at arm's–length prices (*i.e.*, at prices comparable to the prices at which the respondent sold identical merchandise to unaffiliated customers). *See* section 351.403(c) of the Department's regulations. To test whether the sales to affiliates were made at arm's–length prices, we compared the unit prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and rebates, and packing. *See id*. In accordance with the Department's practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we consider the sales to be at arm's–length prices. *See* section 351.403(c) of the Department's regulations; *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). Where the affiliated party transactions did not pass the arm's–length test, all sales to that affiliated party have been excluded from the NV calculation. Because the aggregate volume of the sales to these affiliates is less than 5 percent of total home market sales, we did not request downstream sales. See section 351.403(d) of the Department's regulations.

Price to Price Comparisons

For those product comparisons for which there were HM sales of like product in the ordinary course of trade, we based NV on home market prices to affiliated (when made at prices determined to be arms–length) or unaffiliated parties, in accordance with section 773(a)(1)(A) and (B) of the Act. We made adjustments for differences in

cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act, and for differences in direct selling expenses, in accordance with 773(a)(6)(C)(iii) of the Act and section 351.410 of the Department's regulations. We relied on our model match criteria in order to match U.S. sales of subject merchandise to comparison sales of the foreign like product based on the reported physical characteristics of the subject merchandise. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire. *See* section 771(16) of the Act.

Dofasco: When comparing Dofasco's Canadian sales to its EP sales, the Department calculated Dofasco's starting price as its gross unit price, taking into account, where necessary, billing adjustments and early payment discounts, pursuant to section 773(a)(1)(A) of the Act. In accordance with section 351.401(c) of the Department's regulations, we added other revenue (*e.g.*, inland freight revenue), where applicable. Pursuant to section 773(a)(6)(B)(ii) of the Act, we made deductions for movement expenses (*e.g.*, inland freight and warehousing), when appropriate. In accordance with sections 773(a)(6)(A) and (B) of the Act, we deducted home market packing and added U.S. packing costs. In accordance with section 773(a)(6)(C)(iii) of the Act and section 351.410(c–d) of the Department's regulations, we deducted home market direct selling expenses (*e.g.*, credit, warranty, and royalty) and added U.S. direct selling expenses. Pursuant to section 351.410(e) of the Department's regulations, we offset any commissions paid on EP sales to the United States by deducting home market indirect selling expenses up to U.S. commissions. In comparing Dofasco's EP sales to Canadian sales made at a different LOT, where we found a pattern of price difference, we made an LOT adjustment to NV in accordance with section 773(a)(7)(A) of the Act. *See* ''Level of Trade'' below. We made further adjustments for differences in costs attributable to differences in physical characteristics of merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

When comparing Dofasco's Canadian sales to its CEP sales, the Department calculated Dofasco's starting price as its gross unit price, taking into account, where necessary, billing adjustments and early payment discounts, pursuant to section 773(a)(1)(A) of the Act. In accordance with section 351.401(c) of the Department's regulations, we added other revenue (*e.g.*, inland freight revenue), where applicable. Pursuant to section 773(a)(6)(B)(ii) of the Act, we made deductions for movement expenses (*e.g.*, inland freight and warehousing), when appropriate. In accordance with sections 773(a)(6)(A) and (B) of the Act, we deducted home market packing and added U.S. packing costs. In accordance with section 773(a)(6)(C)(iii) of the Act and section 351.410(c–d) of the Department's regulations, we deducted home market direct selling expenses, including warranty and credit expenses. Since we were able to find a pattern of price difference in each instance where we compared Dofasco's CEP sales to Canadian sales made at a different LOT, we made an LOT adjustment to NV in accordance with section 773(a)(7)(A) of the Act. We made further adjustments for differences in costs attributable to differences in physical characteristics of merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Stelco: The Department calculated Stelco's starting price as its gross unit price, taking into account, where necessary, billing adjustments and early payment discounts, pursuant to section 773(a)(1)(A) of the Act. In accordance with section 351.401(c) of the Department's regulations, we added other revenue (*e.g.*, inland freight revenue), where applicable. Pursuant to section 773(a)(6)(B)(ii) of the Act, we made deductions for movement expenses (*e.g.*, inland freight and warehousing), when appropriate. In accordance with sections 773(a)(6)(A) and (B) of the Act, we deducted home market packing and added U.S. packing costs. In accordance with section 773(a)(6)(C)(iii) of the Act and section 351.410(c–d) of the Department's regulations, we deducted home market direct selling expenses (*e.g.*, credit, warranty, technical services, and advertising) and added U.S. direct selling expenses. We made further adjustments for differences in costs attributable to differences in physical characteristics of merchandise in accordance with section 773(a)(6)(C)(ii) of the Act.

Cost Of Production Analysis

The Department disregarded certain Dofasco and Stelco sales that failed the cost test in the most recently completed review. *See Preliminary Results of 11th Review* and *Final Results of 11th Review*. We, therefore, have reasonable grounds to believe or suspect, pursuant to section 773(b)(2)(A)(ii) of the Act, that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the cost of production (COP). Thus, pursuant to section 773(b)(1) of the Act, we examined whether Dofasco's and Stelco's sales in the home market were made at prices below the COP.

We compared sales of the foreign like product in the home market with model–specific COP figures in the POR. In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, plus selling, general and administrative (SG&A) expenses, and financial expenses and packing. In our sales–below-cost analysis, we used home market sales and COP information provided by Dofasco and Stelco in their questionnaire responses. *See* Dofasco's January 17, 2006 section D Questionnaire Response; *see also* Stelco's December 19, 2005 section D Questionnaire Response.

We compared the weighted–average COPs to home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made (1) within an extended period of time in substantial quantities, and (2) at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade, in accordance with sections 773(b)(1)(A) and (B) of the Act.[2] On a product–specific basis, we compared the COP to home market prices, less any movement charges, discounts and rebates, and direct and indirect selling expenses. *See Treatment of Adjustments and Selling Expenses in Calculating the Cost of Production (''COP'') and Constructed Value (''CV'')* Import Policy Bulletin (March 25, 1994).

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given model

[2] Section 773(b)(2)(ii)(B-C) of the Act defines extended period of time as a period that is normally 1 year, but not less than 6 months, and substantial quantities as sales made at prices below the cost of production that have been made in substantial quantities if (i) the volume of such sales represents 20 percent or more of the volume of sales under consideration for the determination of normal value, or (ii) the weighted average per unit price of the sales under consideration for the determination of normal value is less than the weighted average per unit cost of production for such sales.

were at prices less than the COP, we did not disregard any below–cost sales of that model because the below–cost sales were not made in substantial quantities within an extended period of time. Where 20 percent or more of a respondent's sales of a given model were at prices less than the COP, we disregarded the below–cost sales because they were made in substantial quantities within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act. Because we compared prices to average costs in the POR, we also determined that the below–cost prices did not permit the recovery of costs within a reasonable period of time, in accordance with section 773(b)(1)(B) of the Act.

In certain instances, we found that more than 20 percent of Dofasco's and Stelcos' home market sales of a given model(s) during the POR were at prices below the COP, and, in addition, the below–cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We therefore excluded the below cost sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

Constructed Value

In accordance with section 773(a)(4) of the Act, we used constructed value (CV) as the basis for NV when we could not determine NV because there were no above–cost contemporaneous sales of identical or similar merchandise in the comparison market. We calculated CV in accordance with section 773(e) of the Act, including the cost of materials and fabrication, SG&A expenses, and profit. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by the respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the home market. Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, SG&A expenses, and profit for CV, where possible.

Dofasco: We used CV as the basis for NV for sales in which there were no usable contemporaneous sales of the foreign like product in the comparison market, in accordance with section 773(a)(4) of the Act. We calculated CV in accordance with section 773(e) of the Act. We added reported materials, labor, and factory overhead costs to derive the cost of manufacture (COM), in accordance with section 773(e)(1) of the Act. We then added interest expenses, SG&A expenses, profit, and U.S. packing expenses to derive the CV (and added U.S. credit for comparison to EP), in accordance with sections 773(e)(2) and (3) of the Act. We calculated profit based on the total value of sales and total COP reported by Dofasco in its questionnaire response, in accordance with section 773(e)(2)(A) of the Act. Finally, we deducted comparison market credit expenses from CV (and added U.S. credit) to calculate the foreign unit price in dollars (FUPDOL), pursuant to section 773(e)(2)(B) of the Act. Since Dofasco did not report its selling expenses, G&A expenses, and profit that we used for CV on an LOT basis, we were unable to identify a CV LOT.

Level Of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same LOT as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* section 351.412(c)(2) of the Department's regulations. Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; *see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*South African Plate Final*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution),[3] including selling functions,[4] class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying levels of trade for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices), we consider the starting prices before any adjustments. In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determined NV based on sales made in the comparison market at the same LOT as the CEP sales. The NV LOT is based on the starting price of the sales in the comparison market. In *Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1315 (Fed. Cir. 2001) (''*Micron Technology*''), the Court of Appeals for the Federal Circuit held that the statute unambiguously requires Commerce to remove the selling activities set forth in section 772(d) of the Act from the CEP starting price prior to performing its LOT analysis. As such, for CEP sales, the U.S. LOT is based on the starting price of the sales, as adjusted under section 772(d) of the Act. Consistent with *Micron Technology*, the Department will adjust the U.S. LOT of Dofasco's CEP sales, pursuant to section 772(d) of the Act, prior to performing the LOT analysis, as articulated by section 351.412 of the Department's regulations.

When the Department is unable to match U.S. sales to sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales to Canadian sales made at a different LOT, and where we found patterns of price differences, we made an LOT adjustment to NV in accordance with section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is more remote from the factory than the CEP LOT and we are unable to make a level of trade adjustment, the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See South African Plate Final*, 62 FR at 61732–33.

Dofasco LOT Analysis

We obtained information from Dofasco regarding the marketing stages involved in making the reported home market and U.S. sales, including a description of the selling activities performed by the respondents for each channel of distribution. *See* Dofasco's December 22, 2005 section A Questionnaire Response. In the current review, as in the previous review, Dofasco claimed that sales in both the home market and the U.S. market were made at different LOTs. *See* Dofasco's December 22, 2005 section A Questionnaire Response at A26 to 28. In the previous review, we concluded that Dofasco did sell at different LOTs. *See Memorandum from Douglas Kirby (AD/CVD Case Analyst) through Sean Carey*

[3] The marketing process in the United States and in the comparison markets begins with the producer and extends to the sale to the final user or consumer. The chain of distribution between the two may have many or few links, and the respondents' sales occur somewhere along this chain. In performing this evaluation, we considered the narrative responses of each respondent to properly determine where in the chain of distribution the sale occurs.

[4] Selling functions associated with a particular chain of distribution help us to evaluate the level(s) of trade in a particular market. For purposes of this preliminary determination, we have organized the common selling functions into four major categories: sales process and marketing support, technical service, freight and delivery, and inventory maintenance.

(Acting Program Manager) to the File; Certain Corrosion–Resistant Carbon Steel Flat Products from Canada: Analysis of Dofasco Inc. (Dofasco) and Sorevco for the Final Results, (March 16, 2006) (*Dofasco Final Analysis Memorandum 11th Review*), on file in the CRU.

We examined the selling activities associated with sales reported by Dofasco to three distinct channels of distribution (automotive, construction, and service centers) in the home market. *See Dofasco Preliminary Analysis Memorandum*. We find that home market sales to the construction and service center customer categories were similar with respect to selling and marketing, technical service, freight services, and inventory. Therefore, we find that these customer categories constituted a distinct level of trade (LOTH2). We find that home market sales to automotive customer category differed significantly from LOTH2 sales with respect to sales process, freight services, and technical service, and therefore, constitute a distinct level of trade (LOTH1). Thus, based upon our analysis of the home market, we find that LOTH1 and LOTH2 constitute two different levels of trade in the home market.

Dofasco reported EP sales through two channels of distribution: Channel 1 including sales to automotive, service centers, and construction, and Channel 4 sales to construction. *See* Dofasco's December 22, 2005 section A Questionnaire Response at A–19 and A–20. We examined the selling activities associated with sales to construction and service center categories through these channels and found them to be similar with respect to selling and marketing, technical service, freight, and inventory. Therefore, we find that these two channels of distribution to these customer categories constituted a distinct level of trade (LOTU2). We find that sales to the automotive customer category differed significantly from LOTU2 sales with respect to selling and marketing and technical service, but were similar with respect to freight and inventory. Since the sales and marketing and technical service functions comprise significant selling activities, we find that these factors are determinative in finding that sales to this automotive customer category constitute a separate level of trade (LOTU1). Thus, based upon our analysis of Dofasco's EP sales, we find that sales to automotive (LOTU1) and sales to construction/manufacturers and service centers (LOTU2) constitute two different levels of trade.

Dofasco reported two channels of distribution related to its CEP sales to automotive customers through Dofasco USA. Pursuant to *Micron Technology*, we excluded any sales activities undertaken by DUSA and only considered the selling activities provided by Dofasco in our LOT analysis. Dofasco reported that these two CEP channels of distribution had the same selling functions and thus constitute a single level of trade. We analyzed the selling functions in both CEP channels and found that Dofasco's CEP sales constituted a single level of trade (LOTU3).

We then compared the two EP levels of trade (LOTU1 and LOTU2) and one CEP level of trade (LOTU3) to the two home market LOTs. We found that LOTU2 differed considerably from LOTH1 with respect to selling and marketing, technical service and freight. However, LOTU2 was similar to LOTH2 with respect to selling and marketing, technical service, freight, and inventory. We also found that LOTU1 differed considerably from LOTH2 with respect to technical service. However, LOTU1 was similar to LOTH1 with respect to selling and marketing, technical service, freight, and inventory. We also found that LOTU3 differed considerably from LOTH2 with respect to technical service and freight. However, LOTU3 was similar to LOTH1 with respect to selling and marketing, technical service, freight, and inventory. Consequently, we are matching LOTU2 sales to sales at the same level of trade in the home market (LOTH2), and LOTU1 and LOTU3 sales to sales at the same level of trade in the home market (LOTH1). Where we could not match products at the same LOT, and there was a pattern of consistent price differences between different LOTs, we made an LOT adjustment. *See* section 773(a)(7)(A) of the Act; *see also Dofasco Preliminary Analysis Memorandum*.

Stelco LOT Analysis

Stelco stated in its response that it was not claiming an LOT adjustment. However, Stelco did provide information regarding its selling functions, which we analyzed. *See* Stelco's May 11, 2006 section A Questionnaire Response at A–6. In the home market, Stelco reported two channels of distribution (end–users and service centers).

We examined Stelco's chain of distribution and the selling activities in the home market. *See Stelco Preliminary Analysis Memorandum*, on file in the CRU. We found that Stelco's home market sales to end–users and service centers differed slightly with respect to freight services, but were similar for sales processes, inventory maintenance, and technical services. Therefore, we find that these customer categories constitute a single level of trade in the home market (LOTH1).

Stelco reported only EP sales through one channel of distribution to a single customer category in the United States, end–users. *See* Stelco's May 11, 2006 supplemental sections A, B, and C Questionnaire Response at A–5. Therefore, we have determined that Stelco has only a single LOT in the United States (LOTU2). Since there is only one Canadian LOT and that differs from the single U.S. LOT, we cannot quantify an LOT adjustment.

Currency Conversion

For purposes of the preliminary results, in accordance with section 773A of the Act, we made currency conversions based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York.

Preliminary Results Of Review

As a result of this review, we preliminarily find that the following weighted–average dumping margins exist:

Manufacturer/Exporter	Margin
Dofasco Inc., Sorevco Inc., Do Sol Galva Ltd.	4.78 %
Stelco Inc.	1.45 %

Cash Deposit Requirements

If the preliminary results are adopted in the final results of review, the following deposit requirements will be effective upon completion of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review, as provided in section 751(a)(1) of the Act: 1) the cash deposit rate for Dofasco, Sorevco, and DSG will be that established in the final results of this review for Dofasco (and entities collapsed with Dofasco); 2) the cash deposit rate for Stelco will be that established in the final results of this review; 3) for previously reviewed or investigated companies not covered in this review, the cash deposit rate will continue to be the company–specific rate published for the most recent period; 4) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate

established for the most recent period for the manufacturer of the subject merchandise; and 5) if neither the exporter nor the manufacturer is a firm covered in this or any previous proceeding conducted by the Department, the cash deposit rate will continue to be the ''all others'' rate established in the LTFV investigation, which is 18.71 percent. *See Amended Final and Order*. For shipments processed by DJG we will, 1) apply Dofasco's rate on merchandise supplied by Dofasco or DSG; 2) apply the company–specific rate on merchandise supplied by other previously reviewed companies; and, 3) apply the ''all others'' rate for merchandise supplied by companies which have not been reviewed in the past. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Duty Assessment

Upon publication of the final results of this review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to section 351.212(b)(1) of the Department's regulations, the Department calculates an assessment rate for each importer of the subject merchandise for each respondent. Stelco and Dofasco have reported entered values for all of their respective sales of subject merchandise to the United States during the POR. We have compared the entered values reported by Stelco and Dofasco with the entered values that they reported to CBP on their customs entries and preliminarily find that Stelco and Dofasco's reported entered values are reliable. *See Stelco's Preliminary Analysis Memorandum and Dofascos's Preliminary Analysis Memorandum*. Therefore, in accordance with section 351.212(b)(1) of the Department's regulations, we will calculate importer–specific ad valorem assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales and the total entered value of the examined sales. These rates will be assessed uniformly on all entries the respective importers made during the POR if these preliminary results are adopted in the final results of review. The Department will issue appropriate assessment instructions directly to CBP within 41 days of the final results of this review. *See* section 356.8(a) of the Department's regulations.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these final results of reviews for which the reviewed companies did not know that the merchandise it sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Public Comment

Pursuant to section 351.224(b) of the Department's regulations, the Department will disclose to any party to the proceeding the calculations performed in connection with these preliminary results, within five days after the date of publication of this notice. Pursuant to section 351.309(c)(ii) of the Department's regulations, interested parties may submit case briefs in response to these preliminary results no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed no later than 5 days after the time limit for filing case briefs in accordance with section 351.309(d)(1) of the Department's regulations. Parties who submit arguments in this proceeding are requested to submit with the argument: 1) a statement of the issue; 2) a brief summary of the argument; and 3) a table of authorities in accordance with section 351.309(d)(2) of the Department's regulations. Further, the Department requests that parties submitting briefs provide the Department with an additional copy of the public version of any such comments on a computer diskette. Case and rebuttal briefs must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Any hearing, if requested, will normally be held two days after the date for submission of rebuttal briefs in accordance with section 351.310(d)(1) of the Department's regulations. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments or at a hearing, within 120 days after the publication of this notice, unless extended. *See* section 751(a)(3)(A) of the Act; section 351.213(h) of the Department's regulations.

Notification To Importers

This notice serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

The preliminary results of this administrative review and this notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–14912 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–816)

Certain Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from petitioners[1], the Department of Commerce (the Department) is conducting the twelfth administrative review of the antidumping order on corrosion–resistant carbon steel flat products (CORE) from Korea. This review covers four manufacturers and exporters (collectively, the respondents) of the subject merchandise: Dongbu Steel Co., Ltd., (Dongbu); Hyundai HYSCO (HYSCO); Pohang Iron & Steel Company, Ltd. and Pohang Coated Steel Co., Ltd. (POCOS), (collectively, the POSCO Group); and Union Steel Manufacturing Co., Ltd. (Union). The

[1] Petitioners are the United States Steel Corporation and Nucor Corporation. Mittal Steel USA ISG, Inc. (Mittal Steel USA) is a domestic interested party.

period of review (POR) is August 1, 2004, through July 31, 2005. We preliminarily determine that during the POR, Dongbu, the POSCO Group, and Union made sales of subject merchandise at less than normal value (NV). However, we preliminarily determine that HYSCO did not make sales of subject merchandise at less than NV (*i.e.*, sales were made at ''zero'' or *de minimis* dumping margins). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess HYSCO's appropriate entries at an antidumping liability of zero percent of the entered value and instruct CBP to assess Dongbu, the POSCO Group, and Union at the rates referenced in the ''Preliminary Results of the Review'' section of this notice.

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska (Union), Preeti Tolani (Dongbu), Victoria Cho (the POSCO Group), and Joy Zhang (HYSCO), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–8362, (202) 482–0395, (202) 482–5075, and (202) 482–1168, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1993, the Department published the antidumping order on CORE from Korea. *See Antidumping Duty Orders on Certain Cold–Rolled Carbon Steel Flat Products and Certain Corrosion–Resistant Carbon Steel Flat Products from Korea*, 58 FR 44159 (August 19, 1993) (*Orders on Certain Steel from Korea*). On September 20, 2005, we published in the **Federal Register** the *Notice of Opportunity to Request Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation*, 70 FR 44085 (August 1, 2005). On August 31, 2005, respondents and petitioners requested a review of Dongbu, HYSCO, the POSCO Group, and Union. The Department initiated this review on September 28, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005).

During the most recently completed segments of the proceeding in which Dongbu, HYSCO, the POSCO Group, and Union participated, the Department disregarded sales below the cost of production (COP) that failed the cost test.[2] Therefore, pursuant to section 773(b)(2)(A)(ii) of the Tariff Act of 1930, as amended (the Act), we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of NV in this review were made at prices below the COP. We instructed Dongbu, HYSCO,[3] the POSCO Group, and Union to respond to sections A–D of the initial questionnaire,[4] which we issued on September 28, 2005.

On April 18, 2006, the Department published a notice extending the time period for issuing the preliminary results of the twelfth administrative review from May 3, 2006, to August 11, 2006. *See Corrosion Resistant Carbon Steel Flat Products From Korea: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 19872 (April 18, 2006).

On July 28, August 1, August 2, and August 17, 2006, the petitioners submitted comments with respect to HYSCO, Union, the POSCO Group and Dongbu. On July 28, 2006, U.S. Steel submitted comments with respect to HYSCO. On August 2, 2006, Mittal Steel USA, submitted comments regarding HYSCO. On July 28, and August 17, 2006, Mittal Steel USA submitted comments with respect to Union. On August 1, 2006, Mittal Steel USA and U.S. Steel both submitted comments with respect to the POSCO Group. On August 3, 2006, Mittal Steel USA submitted comments with respect to Dongbu. *See* company–specific Calculation Memoranda for full details.

On August 16, 2006, the Department published a notice extending the time period for issuing the preliminary results of the twelfth administrative review from August 11, 2006, to August 31, 2006. *See Corrosion Resistant Carbon Steel Flat Products From Korea: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 47170 (August 16, 2006).

Dongbu

On November 18, 2005, Dongbu submitted its section A response to the initial questionnaire. On December 2, 2005, Dongbu submitted its sections B–D response to the initial questionnaire. On June 1, 2006, Dongbu submitted its supplemental questionnaire response to the Department's April 27, 2006, questionnaire for sections A through D. On July 25, 2006, Dongbu submitted its second supplemental questionnaire response to the Department's July 13, 2006, questionnaire for section D.

Union

On November 18, 2005, Union submitted its section A response to the initial questionnaire. On December 2, 2005, Union submitted its sections B–D response to the initial questionnaire. On May 26, 2006, Union submitted its supplemental questionnaire response to the Department's April 24, 2006, questionnaire for sections A through D. On June 23, 2006, Union submitted its second supplemental questionnaire response to the Department's June 9, 2006, questionnaire for sections A–D. On July 14, 2006, Union submitted its third supplemental questionnaire response to the Department's July 7, 2006, questionnaire for sections A through D. On August 2, 2006, Union submitted its fourth supplemental questionnaire response to the Department's July 12, 2006, questionnaire for sections A though D. On August 2, 2006, Union submitted its fifth supplemental questionnaire response to the Department's July 25, 2006, questionnaire for sections A through D. On August 16, 2006, Union submitted its sixth supplemental questionnaire response to the Department's August 4, 2006, questionnaire for sections A through D.

The POSCO Group

On December 2, 2005, the POSCO Group submitted its sections A through D response to the initial questionnaire. On May 23, 2006, the POSCO Group submitted its supplemental

[2] *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 53153, 53154 (September 7, 2005) (*Preliminary Results of the 11th Review of CORE from Korea*); *Notice of Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 7513 (February 13, 2006) and accompanying *Issues and Decisions Memorandum* and *Notice of Amended Final Results of the Eleventh Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 13962 (March 20, 2006).

[3] The Department aligned the 10th administrative review with a new shipper review of HYSCO. *See Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review and Antidumping Duty New Shipper Review*, 69 FR 54101 (September 7, 2004) and *Notice of Final Results of the Tenth Administrative Review and New Shipper Review of the Antidumping Duty Order of Certain Corrosion Resistant Carbon Steel Flat Products from the Republic of Korea*, 70 FR 12443 (March 14, 2005).

[4] Section A: Organization, Accounting Practices, Markets and Merchandise

Section B: Comparison Market Sales

Section C: Sales to the United States

Section D: Cost of Production and Constructed Value

questionnaire response to the Department's April 18, 2006, questionnaire for sections A through D. On July 21, 2006, the POSCO Group submitted its second supplemental questionnaire response to the Department's July 7, 2006, questionnaire for sections B and C.

HYSCO

On December 2, 2005, HYSCO submitted its sections A through D response to the Department's initial questionnaire. On May 15, 2006, HYSCO submitted its supplemental questionnaire response to the Department's April 10, 2006, questionnaire for sections A through D. On July 19, 2006, HYSCO submitted a second supplemental questionnaire response to the Department's June 30, 2006, questionnaire for sections A through D.

Requests for Revision to the Model Match Criteria

On November 2, 2005, Mittal Steel USA, a domestic interested party, submitted information to the record regarding the Department's model match methodology on CORE from Korea. This submission also included a request that the Department modify its model match criteria and collect additional and detailed CORE product information from the respondents in this proceeding. Mittal Steel USA's November 2, 2005, submission included a copy of a May 28, 2004, study that it had submitted in the tenth (2002–03) administrative review of this proceeding. Mittal Steel USA's November 2, 2005, submission also included copies of the deficiency comments it submitted with respect to Union, Dongbu, HYSCO, and the POSCO Group in the eleventh (2003–2004) administrative review of this proceeding.[5] These submissions included Mittal Steel USA's previous requests that the Department change its model match methodology and collect additional CORE product characteristics on both a case–wide and a company–specific basis.

On December 1, 2005, the POSCO Group presented its model match submission (''POSCO model match submission'') discussing its specific arguments regarding its sales and production of laminated CORE products. In its model match submission, the POSCO Group requests that the Department modify the model match criteria for coated and painted CORE products. It also states that the Department has long held that model match criteria should reflect ''meaningful'' physical and commercial differences between products through the examination of the physical differences and the relative impact these differences have on the cost and price of the subject merchandise. Thus, the POSCO Group argues that the Department should revise the CTYPE field to differentiate certain specialty painted and laminated CORE products from other coated/painted CORE products.

In their December 5, 2005, Section B responses, Dongbu, the POSCO Group and Union discuss the various CORE products sold in their home markets. Dongbu explains that laminated products should be separately coded because the product commands a significantly higher price than pre–painted products, the cost of producing the laminated products is significantly higher, laminated CORE production occurs on markedly different coating machines, and the uses of the laminated products differ from the uses of other pre–painted products (including polyvinylidene fluoride CORE (''PVDF'')). Dongbu argues that the TOTCOM (*i.e.*, total cost of manufacturing) for its laminated CORE products is higher than its PVDF CORE products and, therefore, warrants a separate code. The POSCO Group explains that certain specialty coated/painted and laminated CORE products should be separately coded because the products command a significantly higher price than regular polyester pre–painted CORE products, the cost of producing the specialty coated/painted and laminated CORE products is significantly higher, specialty coated/painted and laminated CORE product production occurs on markedly different coating machines, and the uses of the specialty coated/painted and laminated CORE products differ from the uses of other regular polyester pre–painted CORE products. The POSCO Group explains that the specifics of its arguments can be found in its December 1, 2005, model match submission. Union states that its laminated steel is a corrosion–resistant steel with a polyethylene telephthalate (''PET'') film that is thermally sealed onto primer–coated CORE. Union also states that its affiliate, Union Coating Co., Ltd. (''UNICO''), produces laminated steel that has a colored PVC (''polyvinyl chloride'') film that is attached to the CORE substrate using an adhesive. Union goes on to state that laminating of its CORE products increases its production costs and sales price.

In its December 7, 2005, submission in response to the POSCO Group's model match submission and to Union's report of laminated sales of CORE, Mittal Steel USA argues that the Department should not consider any *ad hoc* modifications to the model match methodology employed in this proceeding and reiterates its argument that the Department should heed its repeated requests to collect additional information on all the products, *in toto*, from all the respondents in this administrative review. Mittal Steel USA further argues that the facts in the POSCO Group's request offers support to Mittal Steel USA's argument that the Department's current model match methodology might be fundamentally flawed. Mittal Steel USA states that if the POSCO Group believes the method is inaccurate with respect to certain CORE products, then this is a powerful suggestion that the current model match methodology is potentially inaccurate with respect to all the CORE products in this administrative review as well. Accordingly, Mittal Steel USA believes that it would be unfair for the Department to accommodate the POSCO Group's request, while ignoring Mittal Steel USA's, thereby allowing a one–way adjustment to the model match criteria simply because a respondent is able to provide detailed data with respect to its arguments. Mittal Steel USA argues further that a one–way adjustment would be arbitrary, prejudicial, and an abuse of the Department's discretion.

Finally, on January 18, 2006, the United States Steel Corporation (''U.S. Steel''), submitted additional factual information to the record. U.S. Steel's January 18, 2006, submission lacked any narrative explanation or description of the eight attachments it submitted to the record. Presumably, these exhibits are deemed, by U.S. Steel, relevant to this topic in this segment of this proceeding.

The Department has determined not to alter the model match criteria in this segment of the proceeding. While a number of arguments have been made by some of the interested parties in this segment of this proceeding, none have provided sufficient evidence to compel the Department to change its long–standing practice of applying its current model matching criteria in this segment of this proceeding. For further discussion of this issue, *see* the August 31, 2006, memorandum from James Terpstra, Program Manager, AD/CVD Operations, Office 3, to Melissa G. Skinner, Director, AD/CVD Operations,

[5] *See* Mittal Steel USA's November 2, 2005, submission at proprietary attachments 2, 3, 4, and 5 for its June 9, 20, 21, and July 19, 2005, deficiency comments regarding Union, Dongbu, HYSCO, and the POSCO Group, respectively, in the eleventh administrative review of this proceeding.

Office 3, of which the public version is available in the Central Records Unit (CRU), Room B–099 of the main Department building.

Period of Review

The POR covered by this review is August 1, 2004, through July 31, 2005.

Scope of the Order

This order covers flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, 7217.90.5090. Included in the order are flat–rolled products of non–rectangular cross-section where such cross-section is achieved subsequent to the rolling process including products which have been beveled or rounded at the edges (i.e., products which have been ''worked after rolling''). Excluded from this order are flat–rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin–free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this order are certain clad stainless flat–rolled products, which are three–layered corrosion–resistant carbon steel flat–rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat–rolled product clad on both sides with stainless steel in a 20%-60%-20% ratio.

These HTSUS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all CORE products produced by the respondents, covered by the scope of the order, and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to CORE sold in the United States.

Where there were no sales in the ordinary course of trade of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the Appendix V physical characteristics reported by each respondent. Where sales were made in the home market on a different weight basis from the U.S. market (theoretical versus actual weight), we converted all quantities to the same weight basis, using the conversion factors supplied by the respondent, before making our fair–value comparisons.

Normal Value Comparisons

To determine whether sales of CORE by the respondents to the United States were made at less than NV, we compared the Export Price (EP) or Constructed Export Price (CEP) to the NV, as described in the ''Export Price/Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted–average prices for NV and compared these to individual U.S. transactions.

Export Price/Constructed Export Price

We calculated the price of U.S. sales based on CEP, in accordance with section 772(b) of the Act, which defines the term ''constructed export price'' as ''the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d) of this section.'' In contrast, section 772(a) of the Act defines ''export price'' as ''the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c) of this section.''

In determining whether to classify U.S. sales as either EP or CEP sales, the Department must examine the totality of the circumstances surrounding the U.S. sales process, and assess where the reviewed sales or agreements of sale were made for purposes of section 772(b) of the Act. In the instant case, the record establishes that the sales were made in the United States after importation. Dongbu's, the POSCO Group's, Union's, and HYSCO's affiliates in the United States (1) took title to the subject merchandise and (2) invoiced and received payment from the unaffiliated U.S. customers for their sales of the subject merchandise to those U.S. customers. Thus, the Department has determined that these U.S. sales should be classified as CEP transactions under section 772(b) of the Act.

For Dongbu, the POSCO Group, Union, and HYSCO, we calculated CEP based on packed prices to unaffiliated customers in the United States. Where appropriate, we made deductions from the starting price for foreign inland freight, foreign inland insurance, foreign brokerage and handling, international freight, marine insurance, U.S. warehousing expenses, U.S. wharfage, U.S. inland freight, U.S. brokerage and handling, loading expenses, other U.S. transportation expenses, U.S. customs duties, commissions, credit expenses, letter of credit expenses, warranty expenses, other direct selling expenses, inventory carrying costs incurred in the United States, and other indirect selling expenses in the country of manufacture and the United States associated with economic activity in the United States. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. Where appropriate, we added interest revenue to the gross unit price.

In order to ensure that we have accounted for all appropriate U.S.

interest expenses (i.e. both imputed and actual) without double–counting, we have utilized the following interest expense methodology. As in a previous review, in the U.S. indirect selling expenses, we have included net financial expenses incurred by the respondent's U.S. affiliates; however, we added U.S. interest expenses only after deducting U.S. imputed credit expenses and U.S. inventory carrying costs, so as to eliminate the possibility of double–counting U.S. interest expenses.[6]

Consistent with the Department's normal practice, we added the reported duty drawback to the gross unit price. We did so in accordance with the Department's long–standing test, which requires: (1) That the import duty and rebate be directly linked to, and dependent upon, one another; and (2) that the company claiming the adjustment demonstrate that there were sufficient imports of imported raw materials to account for the duty drawback received on the exports of the manufactured product. *See Preliminary Results of the 11th Review of CORE from Korea*, 70 FR at 53156.

HYSCO's Sales of Subject Merchandise that were Further Manufactured and Sold as Non–Subject Merchandise in the United States

In its Section A questionnaire response and on November 9, 2005, HYSCO requested that the Department exclude certain sales of subject merchandise that were further manufactured by its wholly–owned U.S. subsidiary, HYSCO America Company (''HAC''), and sold as non–subject merchandise in the United States during the POR, citing ''the extreme difficulty in calculating CEP for these sales through HAC.''[7] The Department issued several supplemental questionnaires to HYSCO regarding these sales. *See* the Department's supplemental questionnaires, dated November 23, 2005, January 4, January 24, and April 10, 2006.

In considering the appropriate treatment for these sales, we considered the different transactions involved. In the first transaction, HYSCO sold subject merchandise to an unrelated trading company in the United States; in the second transaction, the unrelated U.S. trading company resold the subject merchandise to HAC, HYSCO's wholly owned U.S. subsidiary; finally, HAC further processed the subject merchandise into non–subject merchandise which it then sold in the United States. With respect to the last transaction, we granted HYSCO's request to not report its further manufactured sales and further manufacturing costs of HAC because such transactions represent a comparatively small portion of its total sales and the value added before the sale to the first unaffiliated buyer substantially exceeded the value of the subject merchandise. Instead, we have included the first transaction in our calculations. It is a sale of subject merchandise by HYSCO to an unaffiliated purchaser in the United States, in accordance with section 772 of the Act. In addition, although the subject merchandise is subsequently resold to HYSCO's wholly–owned subsidiary, we preliminarily find HYSCO's initial sale of subject merchandise to the unrelated U.S. trading company was not unrepresentative or distortive. *See FAG U.K. Ltd. v. United States*, 945 F. Supp. 260, 265 (CIT 1996).

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade.

Where appropriate, we deducted rebates, discounts, inland freight (offset, where applicable, by freight revenue), inland insurance, and packing. Additionally, we made adjustments to NV, where appropriate, for credit expenses, warranty expenses, post–sale warehousing, and differences in weight basis. We also made adjustments, where appropriate, for home market indirect selling expenses and inventory carrying costs to offset U.S. commissions.

We also increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act.

For purposes of calculating the NV, section 771(16) of the Act defines ''foreign like product'' as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. When there are no identical products sold in the home market, the products which are most similar to the product sold in the United States are identified. For the non–identical or most similar products which are identified based on the Department's product matching criteria, an adjustment is made to the home market sales price to account for the actual physical differences between the products sold in the United States and the home market or third country market. *See* 19 CFR 351.411 and section 773(a)(6)(C)(ii) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the CEP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT.

Pursuant to 19 CFR 351.412, to determine whether CEP sales and NV sales were at different LOTs, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's–length) customers. If the comparison market sales are at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined, we will make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV LOT is at a more advanced stage of distribution than the CEP LOT and the data available do not provide an appropriate basis to determine an LOT adjustment, we will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732–33 (November 19, 1997).

We did not make an LOT adjustment under 19 CFR 351.412(e) because, as there was only one home market LOT for each respondent, we were unable to identify a pattern of consistent price differences attributable to differences in LOTs (*see* 19 CFR 351.412(d)). Under 19 CFR 351.412(f), we are preliminarily granting a CEP offset for Dongbu, HYSCO, the POSCO group, and Union

[6] *See Notice of the Final Results of Antidumping Administrative Reviews: Cold-Rolled (CR) and Corrosion-Resistant (CORE) Carbon Steel Flat Products from Korea*, 67 FR 11976 (March 11, 2002) and accompanying Issues and Decision Memorandum at Comment 1, on file in the CRU.

[7] *See* HYSCO's December 5, 2005, Section A questionnaire response at 3.

because the NV for these companies are at a more advanced LOT than their U.S. CEP sales.

For a detailed description of our LOT methodology and a summary of company–specific LOT findings for these preliminary results, *see* the August 31, 2006, *Calculation Memorandum for Dongbu Steel Co., Ltd.*; *Calculation Memorandum for Hyundai HYSCO*; *Calculation Memorandum for Pohang Iron & Steel Company, Ltd. (POSCO) and Pohang Coated Steel Co., Ltd. (POCOS) – (collectively, the POSCO Group)*; and *Calculation Memorandum for Union Steel Manufacturing Co., Ltd.*, of which the public versions are on file in the CRU.

Cost of Production

A. Calculation of COP

We are investigating COP for Dongbu, HYSCO, the POSCO group, and Union because during the most recently completed segments of the proceeding in which Dongbu, HYSCO, the POSCO Group, and Union participated, the Department found and disregarded sales that failed the cost test. We calculated a company–specific COP for Dongbu, HYSCO, the POSCO Group, and Union based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home–market selling expenses, selling, general and administrative expenses (SG&A), and packing costs in accordance with section 773(b)(3) of the Act. We relied on Dongbu's, the POSCO Group's, Union's and HYSCO's information as submitted.

B. Major Input Rule

1. *Major Input Rule: HYSCO*

Pursuant to section 773(f)(3) of the Act and 19 CFR 351.407(b), the Department may value major inputs purchased from affiliated suppliers at the higher of the transfer price, the market price, or the affiliate's COP. HYSCO reported purchases of raw material input accounting for a significant portion of its total material cost from an affiliated supplier. We requested that HYSCO supply its affiliate supplier's COP information for the major material input. In HYSCO's letter dated July 19, 2006, HYSCO indicated that, despite its repeated requests, its affiliated supplier has refused to provide the COP information. Where an interested party or any other person withholds necessary information that has been requested, the application of facts available is appropriate in reaching a determination, in accordance with section 776(a) of the Act. Under section 776(b) of the Act, we may use an inference adverse to the interests of an interested party that has failed to cooperate by not acting to the best of its ability to comply with a request for information. In determining whether a respondent has acted to the best of its ability in seeking the COP information from its affiliate, the Department usually examines the nature of the affiliation, in addition to other facts. *See Certain Cut–to-Length Carbon Steel Plate from Brazil: Final Results of Antidumping Duty Administrative Review*, 63 FR 12744, 12751 (March 16, 1998) (*Plate from Brazil*). Given the nature of the affiliation, we determine that HYSCO made reasonable attempts to obtain the requested COP information from its affiliate. *See* the August 31, 2006 *Calculation Memorandum for Hyundai HYSCO*, where the Department discusses HYSCO's specific attempts to obtain this cost data. Therefore, we are not applying an adverse inference in selecting from the facts available.

In prior cases, we have turned to other COP information on the record, if available, as non–adverse ''gap–filling'' facts available. However, the record contains no other information about the affiliated supplier's COP. In prior cases, when there is no such COP data on the record and no indication that the affiliated supplier's COP is higher than the transfer or market price, we have used the higher of the transfer price or the market price as facts available. *See Plate from Brazil* at 12751; *Notice of Final Determination of Sales at Less Than Fair Value: Certain Polyester Staple Fiber from the Republic of Korea*, 65 FR 16880 (March 30, 2000), and accompanying *Issues and Decision Memorandum* at Comment 6. As facts available for the major input, we are using the market prices that HYSCO reported for its purchases of the major input from unaffiliated suppliers. *See* the August 31, 2006, *Calculation Memorandum for Hyundai HYSCO*, on file in the CRU.

2. *Major Input Rule: Union*

The Department reviewed Union's reported cost of materials for the preliminary results of this review. We found that the transfer price that Union paid to its affiliate for a raw material input was higher than either Union's market price or its affiliated supplier's COP. Thus, Union's COP was correctly based on Union's transfer price. Therefore, we made no adjustments to the reported cost of input materials from Union's suppliers. *See* the August 8, 2006, *Calculation Memorandum for Union Manufacturing Inc.* at 4.

D. Test of Home–Market Prices

In determining whether to disregard home market sales made at prices below the COP, as required under sections 773(b)(1)(A) and (B) of the Act, we compared the weighted–average COP figures to home market sales of the foreign like product and we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product–specific basis, we compared the COP to the home market prices (not including VAT), less any applicable movement charges, discounts, and rebates.

E. Results of COP Test

Pursuant to section 773(b)(1) of the Act, we may disregard below COP sales in the determination of NV if these sales have been made within an extended period of time in substantial quantities and were not at prices which permit recovery of all costs within a reasonable period of time. Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP for at least six months of the POR, we determined that sales of that model were made in ''substantial quantities'' within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act. Where prices of a respondent's sales of a given product were below the per–unit COP at the time of sale and below the weighted–average per–unit costs for the POR, we determined that sales were not at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. In such cases, we disregarded the below–cost sales in accordance with section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because we determined that the below–cost sales were not made in ''substantial quantities.''

We tested and identified below–cost home market sales for Dongbu, Union, the POSCO Group, and HYSCO. We disregarded individual below–cost sales of a given product and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. *See* the August 31, 2006, *Calculation Memorandum for Dongbu Steel Co., Ltd.*; *Calculation Memorandum for*

Hyundai HYSCO; *Calculation Memorandum for Pohang Iron & Steel Company, Ltd. (POSCO) and Pohang Coated Steel Co., Ltd. (POCOS) – (collectively, the POSCO Group)*; and *Calculation Memorandum for Union Steel Manufacturing Co., Ltd.*

Arm's–Length Sales

The POSCO Group reported sales of the foreign like product to an affiliated reseller/service center. Dongbu and HYSCO also reported that they made sales in the home market to affiliated parties. The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at arm's length. *See* 19 CFR 351.403(c).

To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's–length prices. *See Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative: Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 71 FR 45017, 45020 (August 8, 2006); 19 CFR 351.403(c). Conversely, where we found sales to the affiliated party that did not pass the arm's–length test, all sales to that affiliated party have been excluded from the NV calculation. *See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 69186, 69187 (November 15, 2002).

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of this review, we preliminarily find that the following weighted–average dumping margins exist:

Producer/Manufacturer	Weighted–Average Margin
Dongbu	1.97%
HYSCO	0.03% (*de minimis*)
The POSCO Group	0.48% (*de minimis*)
Union	1.69%

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). Interested parties may submit case and rebuttal briefs in accordance with 19 CFR 351.309. The Department will announce the due date of the case briefs at a later date. Rebuttal briefs must be limited to issues raised in the case briefs. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Further, parties submitting written comments are requested to provide the Department with an additional copy of the public version of any such comments on a diskette. An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessment Rate

Upon completion of this administrative review, the Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. Within 15 days of publication of the final results of this administrative review, if any importer–specific *ad valorem* rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries. The total customs value is based on the entered value reported for each importer for all U.S. entries of subject merchandise purchased during the POR for consumption in the United States.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the companies included in these preliminary results for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the ''All Others'' rate if there is no rate for the intermediate company or companies involved in the transaction.

Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CORE for Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original less–than-fair–value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous review conducted by the Department, the cash deposit rate will be 17.70 percent, the ''All Others'' rate established in the underlying investigation. *See Orders on Certain Steel from Korea*. These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of

antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–15004 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–485–803)

Certain Cut–to-Length Carbon Steel Plate from Romania: Preliminary Results of the Antidumping Duty Administrative Review and Partial Rescission

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from domestic producer, Nucor Corporation, and a Romanian producer/exporter, Mittal Steel Galati, S.A. (''MS Galati''), the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain cut–to-length carbon steel plate from Romania. The period of review (''POR'') is August 1, 2004, through July 31, 2005. With regard to the two Romanian companies that are subject to this administrative review, producer MS Galati and exporter Metalexportimport S.A. (''MEI''), we preliminarily determine that sales of subject merchandise produced by MS Galati have been made at less than normal value (''NV''). Since MS Galati had prior knowledge of the destination of the subject merchandise it produced, and MEI does not produce or take title to the subject merchandise, we are assigning a preliminary dumping margin to MS Galati only and rescinding the review with respect to MEI. For a full discussion of the intent to rescind with respect to MEI, *see* the ''Notice of Intent to Rescind in Part'' section of this notice below. We invite interested parties to comment on these preliminary results. Parties that submit comments are requested to submit with each argument (1) a statement of the issue(s), (2) a brief summary of the argument(s), and (3) a table of authorities.

EFFECTIVE DATE: September 11, 2006

FOR FURTHER INFORMATION CONTACT: Dena Crossland or John Drury, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3362 or (202) 482–0195, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on certain cut–to-length carbon steel plate from Romania for the period August 1, 2004, through July 31, 2005. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 44085 (August 1, 2005). On August 31, 2005, the Department received two timely requests for an administrative review of this order. The Department received a timely request from Nucor Corporation, a domestic producer, requesting that the Department conduct an administrative review of shipments exported to the United States from MS Galati. In addition, the Department received a timely request from MS Galati, requesting that the Department conduct an administrative review of subject merchandise produced by MS Galati and exported by MS Galati or MEI.[1]

On September 28, 2005, the Department initiated an administrative review of the antidumping duty order on certain cut–to-length carbon steel plate from Romania, for the period covering August 1, 2004, through July 31, 2005, to determine whether merchandise imported into the United States from MS Galati and MEI is being sold at less than NV. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). On October 13, 2005, the Department issued an antidumping duty questionnaire to MS Galati.

On November 10, 2005, we received the Section A questionnaire response from MS Galati. On December 1, 2004, and January 26, 2006, respectively, MS Galati filed its Section B and C questionnaire responses, and MEI stated in a separate filing that it did not have any home market (''HM'') sales during the POR and, thus, would not be filing a Section B response. On January 23, 2006, the Department issued a supplemental questionnaire regarding MS Galati's Sections A through C questionnaire responses. On March 22, 2005, MS Galati submitted its response to the supplemental questionnaire. On April 11, 2006, the Department issued a second supplemental questionnaire with regard to Sections A through D, and received MS Galati's response on April 27, 2006.

On December 23, 2005, IPSCO submitted allegations of sales below the cost of production (''COP'') against MS Galati, and, on January 12, 2006, MS Galati submitted its rebuttal comments. Upon a thorough review of IPSCO's allegation and MS Galati's comments, the Department initiated a sales–below-cost investigation on January 23, 2006, and instructed MS Galati to respond to Section D of the antidumping questionnaire. On February 12, 2006, the Department received MS Galati's Section D Response. On March 15, 2006, the Department issued a supplemental questionnaire regarding MS Galati's Section D questionnaire response. On April 6, 2006, we received MS Galati's supplemental questionnaire response.

On April 19, 2006, due to the complexity of the case and pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), the Department postponed the preliminary results in this administrative review until no later than August 31, 2006. *See Certain Cut–to-Length Carbon Steel Plate from Romania: Notice of Extension of Time Limit for the Preliminary Results of the Antidumping Duty Administrative Review*, 71 FR 20076 (April 19, 2006).

Notice of Intent To Rescind Review in Part

Pursuant to section 351.213(d)(3) of the Department's regulations, the Department may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. *See, e.g., Stainless Steel Plate in Coils from Taiwan: Notice of Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789, 5790 (February 7, 2002), and *Stainless Steel Plate in Coils from Taiwan: Final Rescission of Antidumping Duty Administrative Review*, 66 FR 18610 (April 10, 2001). As discussed above, MEI stated in its January 26, 2006, letter that it did not have any HM sales. Regarding sales of subject merchandise to the United States, during verification, we found that a) MEI is not the producer of subject merchandise, b) MEI does not

[1] On September 29, 2005, IPSCO Steel Inc. (''IPSCO'') submitted a letter indicating its entry of appearance as a domestic interested party.

take title to the merchandise which MS Galati exports through MEI, and c) MS Galati has knowledge of the destination of its subject merchandise exports. *See* Memorandum to the File, through Abdelali Elouaradia, Program Manager, Verification of the Home Market and U.S. Sales Responses of Mittal Steel Galati S.A. in the Antidumping Duty Administrative Review of Certain Cut–to-Length Carbon Steel Plate from Romania, dated August 25, 2006. Therefore, the Department concludes that during the POR, MEI did not produce or export subject merchandise other than merchandise produced by MS Galati, and accordingly we are preliminarily rescinding the review with respect to MEI.

Scope of the Order

The products covered by this order include hot–rolled carbon steel universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coil and without patterns in relief), of rectangular shape, neither clad, plated nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot–rolled carbon steel flat–rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (''HTSUS'') under item numbers 7208.31.0000, 7208.32.0000, 7208.33.1000, 7208.33.5000, 7208.41.0000, 7208.42.0000, 7208.43.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.11.0000, 7211.12.0000, 7211.21.0000, 7211.22.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, and 7212.50.0000. Included under this order are flat–rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'')--for example, products which have been bevelled or rounded at the edges. Excluded from this review is grade X–70 plate. These HTSUS item numbers are provided for convenience and customs purposes. The written description remains dispositive.

Verification

As provided in section 782(I) of the Act, and section 351.307 of the Department's regulations, we conducted sales and cost verifications of the questionnaire responses of MS Galati and Mittal Steel North America (''MSNA''). We used standard verification procedures, including on–site inspection of MS Galati's production facility. Our verification results are outlined in the following memoranda: (1) Memorandum to the File, through Peter Scholl, Program Manager, Verification of the Cost Response of Mittal Steel Galati S.A. in the Antidumping Duty Administrative Review of Certain Cut–to Length Carbon Steel Plate from Romania , dated August 21, 2006 (''MS Galati Cost Verification Report''); (2) Memorandum to the File, through Abdelali Elouaradia, Program Manager, Verification of the Home Market and U.S. Sales Responses of Mittal Steel Galati S.A. in the Antidumping Duty Administrative Review of Certain Cut–to-Length Carbon Steel Plate from Romania, dated August 31, 2006 (''MS Galati Sales Verification Report''); and (3) Memorandum to the File, through Abdelali Elouaradia, Program Manager, Verification of U.S. Sales Information Submitted by Mittal Steel Galati, S.A. (''MS Galati'') in the Antidumping Duty Administrative Review of Certain Cut–to-Length Carbon Steel Plate from Romania, dated August 30, 2006 (''CEP Verification Report''). Public versions of these reports are on file in the Central Records Unit (''CRU'') located in room B–099 of the Main Commerce Building.

Currency Conversion

We made currency conversions pursuant to section 351.415 of the Department's regulations based on the rates certified by the Federal Reserve Bank.

Date of Sale

The Department's regulations state that it will normally use the date of invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, as the date of sale. *See* section 351.401(I) of the Department's regulations. If the Department can establish ''a different date that better reflects the date on which the exporter or producer establishes the material terms of sale,'' the Department may choose a different date. *Id.*

For the present review, MS Galati reported the date of order acknowledgment as the date of sale for its U.S. sales and invoice date as the date of sale for its home market sales. Regarding its U.S. sales, MS Galati stated that after it agrees on the sales terms with its customer, it issues an order acknowledgment that specifically states that all parties agree that the terms are fixed. According to MS Galati, because of the long lead times between order acknowledgment date and invoice date, it decided to fix the U.S. sales terms with the order acknowledgment to guarantee price stability for its U.S. sales. Regarding its home market sales, MS Galati stated that it issues a contract addendum to the customer, which functions like an order acknowledgment, and then issues an invoice to the customer on or a few days after the date the merchandise is shipped. According to MS Galati, the terms of sale can change up to the date of shipment.

In reviewing all information on the record, including transaction–specific information examined at verification, we preliminarily find that the terms of sale for MS Galati's U.S. sales did not change from the order acknowledgment to the invoice. For home market sales, the Department examined at verification whether the date that MS Galati issued its addendum or the date it issued its invoice best reflects the date of sale, and determined that the invoice date should be the date of sale if the invoice is issued on or before the shipment date, and shipment date should be the date of sale if the invoice is issued after the shipment date. Therefore, for these preliminary results, the Department will use the order acknowledgment date as the date of sale for MS Galati's U.S. sales, and either the invoice date or shipment date, depending on which one takes place earlier, as the date of sale for MS Galati's home market sales. *See* the Analysis Memorandum for the Preliminary Results of the Administrative Review of the Antidumping Duty Order on Certain Cut–to-Length Carbon Steel Plate from Romania, dated August 31, 2006 (''Analysis Memo''), for further discussion of date of sale and other details on the calculation of the antidumping duty weighted–average margin. A public version of this memorandum is on file in the CRU.

Fair Value Comparisons

To determine whether MS Galati's sales of the subject merchandise from Romania to the United States were made at prices below NV, we compared the constructed export price (''CEP'') to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections of this notice. Therefore, pursuant to section 777A(d)(2) of the

Act, we compared the constructed export prices of individual U.S. transactions to the monthly weighted–average normal value of the foreign like product where there were sales made in the ordinary course of trade.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products covered by the ''Scope of the Order'' section above, which were produced and sold by MS Galati in the HM during the POR, to be foreign like product for the purpose of determining appropriate product comparisons to U.S. sales of subject merchandise. We relied on eight characteristics to match U.S. sales of subject merchandise to comparison sales of the foreign like product (listed in order of importance): (1) Painting; (2) quality; (3) specification and/or grade; (4) heat treatment; (5) standard thickness; (6) standard width; (7) whether or not checkered (floor plate); and (8) descaling. Where there were no sales of identical merchandise in the HM to compare to U.S. sales, we compared U.S. sales to the most similar foreign like product on the basis of the characteristics and reporting instructions listed in the Department's questionnaire. *See* Appendix V of the Department's antidumping duty questionnaire to MS Galati, dated October 13, 2005.

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d). For purposes of this administrative review, MS Galati has classified its sales as CEP. MS Galati identified one channel of distribution for U.S. sales: MS Galati through MEI to MSNA and then to unaffiliated U.S. customers, who are distributors. *See* ''Level of Trade'' section below for further analysis.

For this sales channel, MS Galati has reported these sales as CEP sales because the first sale to an unaffiliated party occurred in the United States. Therefore, we based CEP on the packed duty paid prices to unaffiliated purchasers in the United States, in accordance with subsections 772(b), (c), and (d) of the Act. Where applicable, we made a deduction to gross unit price for billing adjustments. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act. These deductions included, where appropriate, foreign inland freight from the plant to the port of export, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, other U.S. transportation expenses (*i.e.*, U.S. stevedoring, wharfage, and surveying), and U.S. customs duty. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses and commissions) and indirect selling expenses. For these CEP sales, we also made an adjustment for profit in accordance with section 772(d)(3) of the Act. We deducted the profit allocated to expenses deducted under sections 772(d)(1) and 772(d)(2) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on total revenue realized on sales in both the U.S. and home markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity, based on the ratio of total U.S. expenses to total expenses for both the U.S. and home markets.

Normal Value

A. Home Market Viability

We compared the aggregate volume of HM sales of the foreign like product and U.S. sales of the subject merchandise to determine whether the volume of the foreign like product sold in Romania was sufficient, pursuant to section 773(a)(1)(C) of the Act, to form a basis for NV. Because the volume of HM sales of the foreign like product was greater than five percent of the U.S. sales of subject merchandise, in accordance with section 773(a)(1)(B)(I) of the Act, we have based the determination of NV upon the HM sales of the foreign like product. Thus, we used as NV the prices at which the foreign like product was first sold for consumption in Romania, in the usual commercial quantities, in the ordinary course of trade, and, to the extent possible, at the same level of trade (''LOT'') as the CEP sales, as appropriate. After testing HM viability, we calculated NV as noted in the ''Price–to-Price Comparisons'' section of this notice.

B. Cost of Production Analysis

Based on a cost allegation submitted by the petitioner pursuant to section 351.301(d)(2)(ii) of the Department's regulations, we found reasonable grounds to believe or suspect that MS Galati made sales of the foreign like product at prices below the COP, as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation of sales by MS Galati. *See* Memorandum to Richard O. Weible, Director, through Abdelali Elouaradia, Program Manager, from John Drury and Dena Aliadinov, Case Analysts, and Ernest Gziryan, Case Accountant, regarding IPSCO Steel Inc.'s Allegation of Sales Below the Cost of Production for Mittal Steel Galati S.A., dated January 23, 2006, on file in the CRU. The Department has conducted an investigation to determine whether MS Galati made HM sales at prices below their COP during the POR within the meaning of section 773(b) of the Act. We conducted the COP analysis in the ''Calculation of Cost of Production'' section as described below.

Because the Department initiated a sales–below-cost investigation, we instructed MS Galati to submit its response to Section D of the Department's Antidumping Questionnaire. MS Galati submitted its response to the Section D questionnaire on February 21, 2006, and its response to the Department's Section D supplemental questionnaire of March 15, 2006, on April 6, 2006.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated a weighted–average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for the HM general and administrative (''G&A'') expenses, interest expenses, and packing expenses. We relied on the COP data submitted by MS Galati in its cost questionnaire responses with the following exceptions:

– We corrected certain computer fields in MS Galati's cost database which were incorrectly reported due to clerical errors.
– We increased the reported costs for byproduct revenue which was erroneously taken as an offset due to a clerical error.
– We adjusted the transfer prices for certain inputs purchased from affiliated suppliers pursuant to section 773(f)(2) of the Act.
– We revised the reported G&A expenses to include certain provisions and taxes. We adjusted the denominator used to calculate the G&A expense rate to account for changes in finished goods inventory.

– In the reported cost database MS

Galati used the financial expense rate which was based on 2004 financial statements of the parent Mittal Steel Company. We revised the reported financial expense rate to use the financial statements of Mittal Steel Company for the year 2005 because it most closely corresponds to the POR. In addition, we adjusted the reported financial expense rate to disallow offset for the short–term interest income because MS Galati did not provide supporting details for the claimed offset.

– We applied the G&A and financial expense rates to the cost of manufacturing including packing expenses, because MS Galati did not remove packing costs from the denominators used to calculate these ratios.

2. Test of Home Market Sales Prices

We compared the weighted–average COP for MS Galati to its HM sales prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales were made at prices below the COP within an extended period of time (*i.e.*, a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model–specific basis, we compared the revised COP to the HM prices, less any applicable movement charges and direct and indirect selling expenses.

3. Results of the COP Test

We disregarded below–cost sales where (1) 20 percent or more of MS Galati's sales of a given product during the POR were made at prices below the COP, and thus such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act, and (2) based on comparisons of price to weighted–average COPs for the POR, we determined that the below–cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We found that MS Galati made sales below cost and we disregarded such sales where appropriate.

C. Arm's–Length Test

MS Galati reported that it made sales in the HM to affiliated and unaffiliated customers. The Department did not require MS Galati to report its affiliated party's downstream sales because these sales represented less than five percent of total HM sales. Sales to affiliated customers in the HM not made at arm's length were excluded from our analysis. *See* section 351.403(c) of the Department's regulations. To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all billing adjustments and freight revenue, movement charges, direct selling expenses, discounts and rebates, and packing. Where the price to that affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to the unaffiliated parties at the same level of trade, we determined that the sales made to the affiliated party were at arm's length. *See Antidumping Proceedings – Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002).

D. Price–to-Price Comparisons

We based NV on the HM sales to unaffiliated purchasers and sales to affiliated customers that passed the arm's–length test. We made adjustments, where appropriate, for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We made adjustments, where applicable, for movement expenses (*i.e.*, inland freight from plant to distribution warehouse, inland freight from plant to customer, and warehousing expenses) in accordance with section 773(a)(6)(B) of the Act. We made circumstance–of-sale adjustments for imputed credit, where appropriate in accordance with section 773(a)(6)(C)(iii) of the Act. In accordance with section 773(a)(6) of the Act, we deducted HM packing costs and added U.S. packing costs. Finally, in accordance with section 773(a)(4) of the Act, where the Department was unable to determine NV on the basis of contemporaneous matches in accordance with section 773(a)(1)(B)(I) of the Act, we based NV on CV.

During the sales verification in Romania, the Department was unable to verify inland freight expenses from the plant to the port of exportation (field DINLFTP1U in the U.S. market sales database). *See* MS Galati Sales Verification Report. Therefore, we have used the highest reported freight value contained in Verification Exhibit 33 for all of the U.S. market sales. *See* Analysis Memo, dated August 31, 2006, for further discussion of this and other adjustments we made as a result of our findings during the verifications.

Level of Trade

In accordance with section 773(a)(1)(B)(I) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same LOT as the EP or CEP transaction. *See also* section 351.412 of the Department's regulations. The NV LOT is the level of the starting–price sales in the comparison market or, when NV is based on CV, the level of the sales from which we derive selling, general and administrative (''SG&A'') expenses and profits. For CEP sales, the U.S. LOT is the level of the constructed sale from the exporter to the affiliated importer. *See* section 351.412(c)(1)(ii) of the Department's regulations. As noted in the ''Constructed Export Price'' section above, we preliminarily find that all of MS Galati's sales through its U.S. affiliates are appropriately classified as CEP sales.

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison market sales are at a different LOT than CEP sales, and the difference affects price comparability, as manifested in a pattern of consistent price differences between sales on which NV is based and comparison market sales at the LOT of the export transaction, where possible, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales for which we are unable to quantify a LOT adjustment, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (''the CEP offset provision''). *See Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes from Canada*, 67 FR 8781 (February 26, 2002); *see also Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732 (November 19, 1997).

In analyzing the differences in selling functions, we determine whether the LOTs identified by the respondent are meaningful. *See Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27371 (May 19, 1997). If the claimed LOTs are the same, we expect that the functions and activities of the seller should be similar. Conversely, if a party claims that LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar. *See Porcelain–on-Steel Cookware from Mexico: Final Results of Administrative Review*, 65 FR 30068 (May 10, 2000) and

accompanying Issues and Decision Memorandum at Comment 6.

To determine whether the comparison market sales were at different stages in the marketing process than the U.S. sales, we reviewed the channels of distribution in each market,[2] including selling functions, class of customer (''customer category''), and the level of selling expenses for each type of sale. In this review, we obtained information from MS Galati regarding the marketing stages involved in sales to the reported home and U.S. markets. MS Galati reported one LOT with two channels of distribution in the HM: (1) sales to unaffiliated distributors and (2) sales to end users (affiliated and unaffiliated). *See* MS Galati's Section A Questionnaire Response (''AQR''), dated November 10, 2005, at pages 15 and 16, and MS Galati's February 23, 2006, Supplemental Questionnaire Response (''SQR'') at pages 6 through 8.

We examined the selling activities reported for each channel of distribution in the HM and we organized the reported selling activities into the following four selling functions: sales process and marketing support, freight and delivery, inventory maintenance and warehousing, and warranty and technical services. We found that MS Galati's level of selling functions to its HM customers for each of the four selling functions did not vary significantly by channel of distribution. *See* MS Galati's AQR at page 17 and Exhibit 5, MS Galati Sales Verification Report, and Verification Exhibit 1. For example, MS Galati provides similar levels of marketing and technical services to distributors and end users. Because channels of distribution do not qualify as separate LOTs when the selling functions performed for each customer class or channel are sufficiently similar, we determined that one LOT exists for MS Galati's HM sales.

In the U.S. market, MS Galati made sales of subject merchandise to MSNA through MEI as the exporter of record, *i.e.*, through one channel of distribution and it claimed only one LOT for its sales in the United States. *See* MS Galati's AQR at page 17 and Exhibit 5, the MS Galati Sales Verification Report, and Verification Exhibit 1. All U.S. sales were CEP transactions between MS Galati and its U.S. affiliate, MSNA, and MS Galati performed the same selling functions in its sales to the unaffiliated customers in each instance. *Id.* Therefore, we preliminary determine that MS Galati's U.S. sales constitute a single LOT.

We then compared the selling functions performed by MS Galati on its CEP sales (after deductions made pursuant to 772 (d) of the Act) to the selling functions provided in the HM. We found that MS Galati provides significant selling functions related to the sales process and marketing support, and warranty and technical service in the HM, which it does not for MSNA in the U.S. market. In addition, the differences in selling functions performed for HM and CEP transactions indicate that MS Galati's HM sales involved a more advanced stage of distribution than CEP sales. In the HM, MS Galati provides marketing further down the chain of distribution by promoting certain downstream selling functions that are normally performed by the affiliated reseller in the U.S. market. On this basis, we determined that the HM LOT is at a more advanced stage of distribution when compared to CEP sales because MS Galati provides more selling functions in the HM at higher levels of service as compared to selling functions performed for its CEP sales. Thus, we find that MS Galati's HM sales are at a more advanced LOT than its CEP sales.

Based upon our analysis, we preliminarily determine that CEP and the starting price of HM sales represent different stages in the marketing process, and are thus at different LOTs. Therefore, when we compared CEP sales to the comparison market sales, we examined whether an LOT adjustment may be appropriate. In this case, because MS Galati sold at one LOT in the HM, there is no basis upon which to determine whether there is a pattern of consistent price differences between LOTs. Further, we do not have the information which would allow us to examine the price patterns of MS Galati's sales of other similar products, and there is no other record evidence upon which a LOT adjustment could be based. Therefore, no LOT adjustment was made.

Because the data available do not provide an appropriate basis for making a LOT adjustment and the LOT of MS Galati's HM sales is at a more advanced stage than the LOT of MS Galati's CEP sales, a CEP offset is appropriate in accordance with section 773(a)(7)(B) of the Act, as claimed by MS Galati. We based the amount of the CEP offset on HM indirect selling expenses, and limited the deduction for HM indirect selling expense to the amount of the indirect selling expenses deducted from CEP in accordance with section 772(d)(1)(D) of the Act. We applied the CEP offset to the NV–CEP comparisons.

Preliminary Results of Review

We preliminarily determine that the following margin is the weighted–average antidumping duty margin of the POR:

Manufacturer/Exporter	POR	Margin
Mittal Steel Galati, S.A.	08/01/04 - 07/30/05	0.07 percent (*de minimis*)

Assessment

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. The Department will issue appropriate instructions directly to the CBP within 15 days of the publication of the final results of this review.

On May 11, 2006, the Department sent a letter to Assistant Commissioner Jayson Ahern, CBP, to alert CBP to what appeared to be a number of premature liquidations of entries of merchandise. This issue arose after the completion of the 2003/2004 administrative review for cut–to-length carbon steel plate from Romania on February 10, 2006. On March 7, 2006, the Court of International Trade issued an injunction enjoining liquidation of entries covered under the 2003/2004 review. In response to instructions regarding the injunction, CBP informed the Department that the majority of entries covered by the review had already been liquidated. As a result, the Department made a customs inquiry regarding the entries of cut–to-length carbon steel plate from Romania for the instant review, and found that the majority of these entries were already liquidated as of April 21, 2006.

[2] The marketing process in the United States and third country market begins with the producer and extends to the sale to the final user or customer. The chain of distribution between the two may have many or few links, and the respondent's sales occur somewhere along this chain. In performing this evaluation, we considered respondent's narrative response to properly determine where in the chain of distribution the sale occurs.

Due to the premature liquidation of entries, the Department is considering whether to allocate the total antidumping duties over the remaining unliquidated entries, if the Department calculates an above *de minimis* weighted–average dumping duty margin in the final results of review. We invite interested parties to comment on this proposal.

Cash–Deposit Requirements

Further, the following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of cut–to-length carbon steel plate entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash–deposit rate for MS Galati will be the rate established in the final results of review, except if the rate is less than 0.50 percent and, therefore, *de minimis* within the meaning of section 351.106(c)(1) of the Department's regulations, in which case the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not mentioned above, the cash–deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (''LTFV'') investigation but the manufacturer is, then the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this review, a prior review, or the LTFV investigation, the cash deposit rate will be 75.04 percent, the ''country–wide'' rate established in the less–than-fair–value investigation. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Schedule for Final Results of Review

The Department will disclose calculations performed for these preliminary results of review within five days of the date of publication of this notice in accordance with section 351.224(b) of the Department's regulations. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* section 351.309(c)(ii) of the Department's regulations. Rebuttal briefs and rebuttals to written comments are limited to issues raised in such briefs or comments and may be filed no later than five days after the time limit for filing the case briefs or comments. *See* section 351.309(d) of the Department's regulations. Parties submitting arguments in this proceeding are requested to submit with the argument: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Case and rebuttal briefs and comments must be served on interested parties in accordance with section 351.303(f) of the Department's regulations.

Any interested party may request a hearing within 30 days of publication of this notice in accordance with section 351.310(c) of the Department's regulations. Unless otherwise specified, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs, or the first business day thereafter. Individuals who wish to request a hearing must submit a written request within 30 days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, 14th Street and Constitution Avenue, NW, Washington, DC 20230. Requests for a public hearing should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) to the extent practicable, an identification of the arguments to be raised at the hearing. If a hearing is held, an interested party may make an affirmative presentation only on arguments included in that party's case brief and may make a rebuttal presentation only on arguments included in that party's rebuttal brief. Parties should confirm by telephone the time, date, and place of the hearing within 48 hours before the scheduled time. The Department will issue the final results of this review, which will include the results of its analysis of issues raised in the briefs, not later than 120 days after the date of publication of this notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under section 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during these review periods. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and this notice are published in accordance with sections 751(a)(1) and 777(I)(1) of the Act.

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–14911 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–428–816)

Certain Cut–to-Length Carbon Steel Plate from Germany: Notice of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to a request from Nucor Corporation (the petitioner), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain cut–to-length carbon steel plate (CTL Plate) from Germany for the period of review (POR) August 1, 2004, through July 31, 2005. This review covers AG der Dillinger Huttenwerke, manufacturer of the subject merchandise, and its U.S. affiliate, Arcelor International America, LLC (AIA) (collectively, Dillinger).

We preliminarily determine that during the POR, Dillinger did not make sales of subject merchandise at less than normal value (NV) (*i.e.*, sales were made at *de minimis* dumping margins). If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to liquidate appropriate entries without regard to antidumping duties.

Interested parties are invited to comment on these preliminary results. Parties who submit comments in this segment of the proceeding should also submit with them: (1) A statement of the issues and (2) a brief summary of the comments. Further, parties submittingwritten comments are requested to provide the Department with an electronic version of the public version of any such comments on diskette.

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Dennis McClure, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230;

telephone: (202) 482–3692 or (202) 482–5973, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1993, the Department published in the **Federal Register** the antidumping duty order on CTL Plate from Germany. *See Antidumping Duty Orders and Amendments to Final Determinations of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products, Certain Cold–Rolled Carbon Steel Flat Products, Certain Corrosion–Resistant Carbon Steel Flat Products, and Certain Cut–to-Length Carbon Steel Plate From Germany*, 58 FR 44170 (August 19, 1993).

On August 1, 2005, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on CTL Plate from Germany. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 44085 (August 1, 2005). On August 31, 2005, we received a request for review from Nucor Corporation (the petitioner), in accordance with 19 CFR 351.213(b)(1). On September 28, 2005, the Department published the notice of initiation of this antidumping duty administrative review covering the period August 1, 2004, through July 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005).

On October 14, 2005, the Department issued its questionnaire to Dillinger. Dillinger's responses to Sections A through D of the Department's questionnaire were received on December 5 and 8, 2005. On January 11, 2006, the petitioner filed comments on Dillinger's questionnaire response. On January 12, 2006, the Department issued a supplemental questionnaire to Dillinger with regard to its corporate structure and organization. On January 18, 2006, Dillinger submitted its supplemental response. On January 27, 2006, the Department instructed Dillinger to report its U.S. sales on a constructed export price (CEP) basis. On March 3, 2006, Dillinger submitted its supplemental response to the Department's request for CEP sales data. For further discussion, see *Affiliation and Collapsing* section below.

The Department issued a supplemental sales questionnaire on January 17, 2006. Dillinger submitted its supplemental response on February 16, 2006. The Department issued an additional supplemental cost questionnaire on January 24, 2006. Dillinger submitted its response to the Department's supplemental cost questionnaire on February 24, 2006. On March 13, 2006, the petitioner submitted comments on Dillinger's Sections A, B, C, and D supplemental responses. On March 16, and July 20, 2006, the Department issued additional supplemental questionnaires. Dillinger submitted supplemental responses on April 3 and 14, 2006, and on July 27, 2006, respectively. Dillinger submitted its sales reconciliation on May 2 and 9, 2006.

On April 6, 2006, the Department published an extension of time limits for the preliminary results of the antidumping duty administrative review extending the time limits to August 31, 2006. *See Certain Cut–to-Length Steel Plate From Germany: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 17438 (April 6, 2006). From May 15 through 19, 2006, the Department conducted a verification of Dillinger's cost response. On June 28, 2006, the Department issued its verification report. On August 15, 2006, the petitioner submitted pre–preliminary comments on the sales and cost responses. We address the issues raised by the petitioner in the *Normal Value* and *Cost of Production* sections below.

Period of Review

The POR covered by this review is August 1, 2004, through July 31, 2005.

Scope of the Order

This order covers hot–rolled carbon steel universal mill plates (*i.e.*, flat–rolled products rolled on four faces or in a closed box pass, of a width exceeding 150 millimeters but not exceeding 1,250 millimeters and of a thickness of not less than 4 millimeters, not in coils and without patterns in relief), of rectangular shape, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances; and certain hot–rolled carbon steel flat–rolled products in straight lengths, of rectangular shape, hot rolled, neither clad, plated, nor coated with metal, whether or not painted, varnished, or coated with plastics or other nonmetallic substances, 4.75 millimeters or more in thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7208.40.3030, 7208.40.3060, 7208.51.0030, 7208.51.0045, 7208.51.0060, 7208.52.0000, 7208.53.0000, 7208.90.0000, 7210.70.3000, 7210.90.9000, 7211.13.0000, 7211.14.0030, 7211.14.0045, 7211.90.0000, 7212.40.1000, 7212.40.5000, 7212.50.0000. Included in the order are flat–rolled products of non–rectangular cross–section where such cross–section is achieved subsequent to the rolling process (*i.e.*, products which have been ''worked after rolling'') for example, products which have been beveled or rounded at the edges. Excluded from this order is grade X–70 plate. Also excluded is certain carbon cut–to-length steel plate with a maximum thickness of 80 mm in steel grades BS 7191, 355 EM, and 355 EMZ, as amended by Sable Offshore Energy Project specification XB MOO Y 15 0001 types 1 and 2.

These HTSUS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Affiliation and Collapsing

Dillinger argues that it is not affiliated with its U.S. distributor, AIA, a wholly–owned Arcelor S.A. entity, and reported its U.S. sales on an export price (EP) basis. Dillinger claims that it does not have any direct business relationships with Arcelor S.A. Rather, all of Dillinger's business relationships with Arcelor S.A. are indirect through Arcelor subsidiaries. *See* Dillinger's January 18, 2006, supplemental questionnaire response at page 4. Dillinger states that it is not under common control with another person (AIA) by a third person (Arcelor, S.A.). Therefore, Dillinger argues that it is not affiliated with AIA. Furthermore, Dillinger claims that the Department previously found Dillinger and Arcelor not to be affiliated companies.

Section 771(33) of the Tariff Act of 1930, as amended (the Act), describes affiliated persons, in part, as ''two or more persons directly or indirectly controlling, controlled by, or under common control with, any person.'' *See* Section 771(33)(F) of the Act. Moreover, the statute provides that ''a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.'' *See* Section 771(33) of the Act.

In the investigation and first review, the Department treated Dillinger's U.S. sales as EP sales (*formerly* purchase price sales).[1] In the second review, we

[1] *Notice of Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon*

Continued

reversed our decision and considered the U.S. sale as a CEP sale. In that review, we determined that Francosteel (now AIA) acted as more than a processor of sales documents and a communications link between the unrelated U.S. customers and Dillinger. We also found that Francosteel played a major role in negotiating and bringing about the sale, from the bidding stage through the final contract.[2]

This review reflects a manufacturer and reseller who are indirectly under the common control of another company, and therefore, affiliated under section 771(33)(F) of the Act. Based on record evidence, we preliminary find that Dillinger and AIA are under the common control of Arcelor, S.A., pursuant to section 771(33)(F) of the Act for several reasons.

First, Arcelor, S.A. owns a majority share of Dillinger Hutte Saarstahl AG (DHS) Holding. DHS, in turn, owns 95.28 percent of Dillinger.[3] Furthermore, Arcelor, S.A. controls 99.98 percent of capital in Dillinger's U.S. affiliate, AIA.[4] This scenario is similar to *Canned Pineapple Fruit*, where the Department found that TPC, MIC and Princes were under the common control of MC and, therefore, affiliated, under section 771(33)(F) of the Act.[5] This scenario is also similar to *Porcelain–on-Steel Cookware*, where Cinsa and ENASA were considered to be under common control of their parent company.[6] Furthermore, although Arcelor, S.A.'s indirect ownership in Dillinger is slightly greater than 50 percent, the legislative history makes clear that one of the Department's goals is to broaden its ability to analyze commercial relationships for the purposes of dumping analysis, which are consistent with economic realities. *See Statement of Administrative Action* (*SAA*) accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session, Vol. 1, (1994) at 838. Moreover, the legislative history also makes clear that the statute does not require majority ownership for a finding of control, but rather encompasses both legal and operational control. *See SAA* at 838.[7] In this review, the economic reality demonstrates a common control of Dillinger and AIA.

Second, Dillinger has explained that it used only one commissioned selling agent in the United States for its U.S. sales and it provided a copy of the commissions agreement.[8] Consistent with our determination in the *Second Review of CTL Plate*, we continue to determine that AIA plays a major role in negotiating and bringing about the sale, from the bidding stage through the final contract, and acts as more than a processor of sales documents and a communications link between the unrelated U.S. customer and Dillinger. We also preliminarily find that Dillinger's relationship to AIA is similar to the circumstances in *Furfuryl Alcohol*, where there was an exclusive sales agreement and the agent participated in the price and sales negotiations.[9]

Finally, Dillinger's normal business practice demonstrates that it is affiliated with AIA. As discussed above, AIA was the only commissioned selling agent during the POR. In addition, both Dillinger and AIA's financial statements are consolidated into Arcelor, S.A.'s financial statements. One of the criteria Arcelor, S.A. uses to determine consolidation is that the group holds significant influence if the group holds 20 percent or more of the voting rights.[10] In other words, the controlling entity within a consolidated group has the ultimate power to determine the capital structure and financial costs of each member in the group. As stated in *Industrial Nitrocellulose*, we cannot ignore the fact that the company is operating as a larger entity with the support (direct or indirect) to which it is entitled from the group.[11] Therefore, for the above–mentioned reasons, we are treating AIA as an affiliate of Dillinger and treating the U.S. sales as CEP sales.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all CTL Plate produced by Dillinger, covered by the scope of the order, and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to CTL Plate sold in the United States.

Where there were no sales in the ordinary course of trade of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by the respondent.

Fair Value Comparisons

To determine whether sales of CTL Plate by Dillinger to the United States were made at less than NV, we compared the CEP to the NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted–average prices for NV and compared these to individual U.S. transactions.

Constructed Export Price

We calculated the price of U.S. sales based on CEP, in accordance with section 772(b) of the Act. The Act defines the term ''constructed export price'' as ''the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d) of this section.'' In contrast, section 772(a) of the Act defines ''export price'' as ''the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for

Steel Plate From Germany, 58 FR 37136 (July 9, 1993); *Certain Cut-To-Length Carbon Steel Plate From Germany: Final Results of Antidumping Duty Administrative Review*, 61 FR 13834 (March 28, 1996).

[2] *Certain Cut-to-Length Carbon Steel Plate From Germany: Final Results of Antidumping Duty Administrative Review*, 62 FR 18390, 18391 (April 15, 1997) (*Second Review of CTL Plate*).

[3] Dillinger's January 18, 2006, supplemental response at 1.

[4] Dillinger's April 14, 2006, supplemental response at 201 of Appendix SA-3.

[5] *Notice of Final Results of Antidumping Administrative Review, Rescission of Administrative Review in Part, and Final Determination to Revoke Order in Part: Canned Pineapple Fruit from Thailand*, 67 FR 76718 (December 13, 2002) (*Canned Pineapple Fruit*).

[6] *Certain Porcelain-on-Steel Cookware From Mexico: Final Results of Antidumping Duty Administrative Review*, 62 FR 42496, 42497 (August 7, 1997) (*Porcelain-on-Steel Cookware*).

[7] *Notice of Preliminary Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils from Italy*, 64 FR 116, 119 (January 4, 1999) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Italy*, 64 FR 30750, 30760 (June 8, 1999)).

[8] Dillinger's December 8, 2006, response at C-28.

[9] *Notice of Final Results of Antidumping Duty Administrative Review: Furfuryl Alcohol from the Republic of South Africa*, 62 FR 61084, 61088 (November 14, 1997) (*Furfuryl Alcohol*).

[10] Note 2, item 3, to Arcelor, S.A. 2005 Consolidated Financial Statements in Appendix SA-8 of AIA's April 14, 2006, supplemental response.

[11] *Industrial Nitrocellulose From the United Kingdom; Final Results of Antidumping Duty Administrative Review*, 67 FR 77747, 77749 (December 19, 2002) (*Industrial Nitrocellulose*) (citing *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from South Africa*, 67 FR 35485, 35487 (May 20, 2002)).

exportation to the United States, as adjusted under subsection (c) of this section.''

In determining whether to classify U.S. sales as either EP or CEP sales, the Department must examine the totality of the circumstances surrounding the U.S. sales process, and assess whether the reviewed sales were made ''in the United States'' for purposes of section 772(b) of the Act. As preliminarily determined by the Department in the *Affiliation and Collapsing* section above, AIA is affiliated with Dillinger, the producer and exporter, and sells to the purchaser in the United States. Furthermore, in the instant case, the record establishes that Dillinger's affiliate in the United States (1) took title to the subject merchandise and (2) invoiced and received payment from the unaffiliated U.S. customers for its sales of the subject merchandise to those U.S. customers. Thus, the Department has determined that these U.S. sales should be classified as CEP transactions.

Where appropriate, pursuant to sections 772(c)(2) and (d) of the Act, we made deductions from the starting price for early payment discounts, inland freight plant to port, inland insurance, brokerage and handling in home market, brokerage and handling in the United States, international freight, marine insurance, other U.S. transportation expenses, U.S. customs duties, credit expenses, inventory carrying costs incurred in the United States, and other indirect selling expenses in the country of manufacture and the United States associated with economic activity in the United States. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit.

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a fair comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade.

Where appropriate, we deducted rebates, inland freight, inland insurance, and packing. Additionally, we made adjustments to NV, where appropriate, for credit expenses and billing adjustments. We did not allow adjustments for commissions because Dillinger did not provide documentation to support its claim that the commissions were at arm's length. *See* Section 773(a)(6)(B) and (C) of the Act the and Preliminary Sales Calculation Memorandum to the File, dated August 31, 2006, which is on file in the Central Records Unit (CRU), Room B–099 of the main Department building.

We also increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act. In accordance with the Department's practice, where all contemporaneous matches to a U.S. sales observation resulted in difference–in-merchandise adjustments exceeding 20 percent of the cost of manufacturing of the U.S. product, we based NV on constructed value. See Policy Bulletin, Number 92.2, *Difmer 20 Percent Rule*, July 29, 1992.

For purposes of calculating the NV, section 771(16) of the Act defines ''foreign like product'' as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. When there are no identical products sold in the home market, the products which are most similar to the product sold in the U.S. are identified. For the non–identical or most similar products which are identified based on the Department's product matching criteria, an adjustment is made to the home market sales price to account for the actual physical differences between the products sold in the United States and the home market. *See* section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the CEP sales. Because all sales in the comparison market were compared at the same LOT as the CEP sales, we did not make a LOT adjustment or CEP offset under section 773(a)(7).

For a detailed description of our LOT methodology and a summary of company–specific LOT findings for these preliminary results, *see* the August 31, 2006, Preliminary Sales Calculation Memorandum, which is on file CRU.

Cost of Production

In the most recently completed segment of the proceeding, the Department found that Dillinger made sales in the home market at prices below the cost of producing the merchandise and excluded such sales from the calculation of NV. *See Second Review of CTL Plate*. Therefore, the Department determined that there were reasonable grounds to believe or suspect that Dillinger made sales of CTL Plate in Germany at prices below the cost of production (COP) in this administrative review. *See* section 773(b)(2)(A)(ii) of the Act. As a result, the Department initiated a COP inquiry for Dillinger.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a weighted–average COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses, selling expenses, packing expenses, and interest expenses.

B. Cost Methodology

We relied on the COP data submitted by Dillinger in its cost questionnaire response except in the specific instances where, based on our review of the submissions and our verification findings, we believe that an adjustment is required, as discussed below. See also Memorandum to Neal Halper, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - AG der Dillinger Huttenwerke'' dated August 31, 2006, which is on file in the CRU.

(1) We increased Dillinger's cost of manufacturing under section 773(f)(2) of the Act (*i.e.*, transactions disregarded rule) for scrap purchased from an affiliated party at less than market value.
(2) We increased Dillinger's cost of manufacturing under section 773(f)(3) of the Act (*i.e.*, major input rule) for coke purchased from a affiliated parties at less than market value.
(3) We revised Dillinger's G&A expense rate calculation to include the year–end inventory adjustments recorded in the company's audited financial statements.
(4) We revised Dillinger's non–consolidated financial expense rate to reflect a rate calculated on the company's highest level of consolidated financial statements.

C. Test of Home–Market Prices

In determining whether to disregard home–market sales made at prices below the COP, as required under sections 773(b)(1)(A) and (B) of the Act, we compared the weighted–average COP figures to home–market sales of the foreign like product and we examined

whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product–specific basis, we compared the COP to the home–market prices, less any applicable movement charges, indirect selling expenses, commissions, and rebates.

D. Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because we determined that the below–cost sales were not made in substantial quantities.

Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in substantial quantities within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act. Because we compared prices to the POR–average COP, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, we disregarded the below–cost sales.

Arm's–Length Sales

Dillinger reported sales of the foreign like product to affiliated resellers/service centers.[12] The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at arm's length. *See* 19 CFR 351.403(c).

To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's–length prices and included such sales in the calculation of NV. *See* Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 FR 69186 (November 15, 2002); and 19 CFR 351.403(c). Conversely, where all sales to the affiliated party did not pass the arm's–length test, all sales to that affiliated party were excluded from the NV calculation. In this instant case, none of the sales to the affiliated resellers/service centers passed the arm's–length test.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of this review, we preliminarily find that the following weighted–average dumping margins exist:

Producer/Manufacturer	Weighted–Average Margin
Dillinger	0.16% (*i.e., de minimis*)

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). Interested parties may submit case and rebuttal briefs. Case briefs must be submitted within 30 days after the date of publication of this notice, and rebuttal briefs, limited to arguments raised in case briefs, must be submitted no later than seven days after the time limit for filing case briefs. Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, and (2) a brief summary of the argument. Further, parties submitting written comments are requested to provide the Department with an additional copy of the public version of any such comments on a diskette. An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon issuance of the final results of this administrative review, if any importer–specific assessment rates calculated in the final results are above *de minimis* (*i.e.*, at or above 0.5 percent), the Department will issue appraisement instructions directly to CBP to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. For assessment purposes, we calculated importer–specific assessment rates for the subject merchandise by aggregating the dumping margins for all U.S. sales to each importer and dividing the amount by the total entered value of the sales to that importer. In instances where entered value was not reported, we calculated importer–specific assessment rates by aggregating the dumping margins calculated for all of the U.S. sales examined and divided this amount by the total quantity of the sales examined. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106 (c)(2), we calculated importer–specific *ad valorem* ratios based on estimated entered values. The Department will issue appropriate assessment instructions directly to CBP within 15 days of publication of the final results of review.

Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CTL Plate from Germany entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for Dillinger will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in these reviews, a prior

[12] We note that sales from Dillinger to its affiliated resellers/service centers constitute less than 5 percent of Dillinger's total sales in the foreign market and we did not require it to report the sales from its affiliated resellers/service centers to the unaffiliated customers. *See* 19 CFR 351.403(d).

review, or the original less than fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous review conducted by the Department, the cash deposit rate will be 36.00 percent, the ''All Others'' rate established in the underlying investigation.[13] These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of this administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E6–15008 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

[13] *Antidumping Duty Orders and Amendments to Final Determinations of Sales at Less Than Fair Value: Certain Hot-Rolled Carbon Steel Flat Products, Certain Cold-Rolled Carbon Steel Flat Products, Certain Corrosion-Resistant Carbon Steel Flat Products, and Certain Cut-To-Length Carbon Steel Plate From Germany*, 58 FR 44170 (August 19, 1993).

DEPARTMENT OF COMMERCE

International Trade Administration

A–552–801

Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the ''Department'') is conducting an administrative review of the antidumping duty order on certain frozen fish fillets from the Socialist Republic of Vietnam (''Vietnam''). *See Notice of Antidumping Duty Order: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 47909 (August 12, 2003) (''*Order*''). We preliminarily find that QVD Food Company Ltd. (''QVD'') sold subject merchandise at less than normal value (''NV'') during the period of review (''POR''), August 1, 2004, through July 31, 2005. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries.

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Julia Hancock, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1394.

SUPPLEMENTARY INFORMATION:

Case History

General

On August 1, 2005, the Department published a notice of opportunity to request an administrative review on the antidumping duty order on certain frozen fish fillets from Vietnam. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 44085 (August 1, 2005). On August 26, 2005, we received a request for review from Phan Quan Trading Co., Ltd. (''Phan Quan''). On August 31, 2005, we received requests for review from An Giang Agriculture and Foods Import–Export Company (''Afiex''); Vinh Hoan Company, Ltd. (''Vinh Hoan''); Can Tho Agricultural and Animal Products Import Export Company (''Cataco''); QVD; and Nam Viet Company, Ltd. (''Navico''). Also on August 31, 2005, we received a request from Catfish Farmers of America and individual U.S. catfish processors (''Petitioners'') to conduct an administrative review of twenty–nine Vietnamese exporters and/or producers.[1] Petitioners' August 31, 2005, administrative review request included Phan Quan, Afiex, Vinh Hoan, Cataco, QVD and Navico. On September 28, 2005, the Department initiated this administrative review, covering the aforementioned twenty–nine companies. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part* (''*Initiation Notice*''), 70 FR 56631 (September 28, 2005).

Quantity and Value (''Q&V'') Questionnaires

On September 14, 2005, the Department issued questionnaires requesting the total quantity and value of subject merchandise exported to the United States during the POR to all 29 companies subject to the administrative review. On September 28, 2005, a memorandum to the file was placed on the record by the Department noting that Federal Express (''Fed Ex'') tracking confirmed that the Q&V questionnaires were delivered to all 29 companies. *See Memorandum to the File, through Cindy Robinson, Acting Program Manager, from Julia Hancock, Case Analyst, Subject: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): Initial Questionnaires Timeline*, (September 28, 2005).

On September 20, 2005, Vietnam Fish–One submitted a letter to the Department stating that it made no shipments of subject merchandise to the United States during the POR. On September 30, 2005, QVD, Vinh Hoan, Cafatex, and Navico submitted Q&V responses. On October 1, 2005, Danang, Mekonimex, Thanh Viet, Phu Thanh, and Afiex submitted Q&V responses. Also, on October 3, 2005, Agifish and Cataco submitted Q&V responses.

On October 5 and 6, 2005, the Department sent a letter to five companies (*i.e.*, Danang, Mekonimex, Thanh Viet, Phu Thanh, and Afiex), requesting that each company resubmit their Q&V response because: (1) Danang failed to answer all questions from the

[1] Petitioners requested a review on the following companies: (1) Afiex, which also requested a review; (2) An Giang Agriculture Technology Service Company (''ANTESCO''); (3) An Giang Fisheries Import and Export Joint Stock Company (''Agifish''); (4) Anhaco; (5) Bamboo Food Co., Ltd. (''Bamboo Food''); (6) Binh Dinh Import Export Company (''Binh Dinh''); (7) Cataco, which also requested a review; (8) Can Tho Animal Fishery Products Processing Export Enterprise (''Cafatex''); (9) Da Nang Seaproducts Import-Export Corporation (''Danang''); (10) Duyen Hai Foodstuffs Processing Factory (''Duyen Hai''); (11) Gepimex 404 Company (''Gepimex''); (12) Hai Vuong Co., Ltd. (''Hai Vuong''); (13) Kien Giang Ltd. (''Kien Giang''); (14) Mekong Fish Company (''Mekonimex''); (15) Navico, which also requested a review; (16) Phan Quan, which also requested a review; (17) Phu Thanh Frozen Factory (''Phu Thanh''); (18) Phuoc My Seafoods Processing Factory (''Phuoc My''); (19) QVD, which also requested a review; (20) Seaprodex Saigon; (21) Tan Thanh Loi Frozen Food Co., Ltd. (''Tan Thanh Loi''); (22) Thangloi Frozen Food Enterprise (''Thanlgoi Frozen Food''); (23) Thanh Viet Co., Ltd. (''Thanh Viet''); (24) Thuan Hung Co., Ltd. (''Thuan Hung''); (25) Tin Thinh Co., Ltd. (''Tin Thinh''); (26) Viet Hai Seafood Company Limited (''Vietnam Fish-One''); (27) Vifaco; (28) Vinh Hoan, which also requested a review; and (29) Vinh Long Import-Export Company (''Vinh Long'').

questionnaire and failed to follow the Department's filing procedures pursuant to its regulations; (2) Mekonimex failed to submit a public version of its questionnaire response; (3) Thanh Viet failed to answer all questions from the questionnaire and failed to follow the Department's filing procedures pursuant to its regulations; (4) Phu Thanh failed to answer all questions from the questionnaire and failed to follow the Department's filing procedures pursuant to its regulations; and (5) Afiex's Q&V response was not properly labeled as a proprietary document and was rejected for overbracketing of proprietary information. Also, on October 6, 2005, the Department issued a letter requesting the sixteen companies who had not responded to the Department's original Q&V questionnaire to submit such response.[2]

On October 19, 2005, Vifaco submitted a letter to the Department stating that it made no shipments of subject merchandise to the United States during the POR. On October 20, 2005, Phan Quan submitted a Q&V response to the Department.

On November 2, 2005, the Department sent a second letter to six companies, (*i.e.*, Danang, Thanh Viet, Tin Thinh, Mekonimex, Thuan Hung, and Afiex), requesting that each company resubmit their respective Q&V response because: (1) Danang failed to bracket the proprietary information in the appropriate format and provide a public version of the proprietary questionnaire response; (2) Thanh Viet failed to answer all the questions from the questionnaire and identify whether its submission was a public or proprietary document; (3) Tin Thinh failed to bracket the proprietary information and provide a public version; (4) Mekonimex failed to provide a public summary of the proprietary information; (5) Thuan Hung failed to answer all of the questions from the questionnaire and identify whether its submission was a public or proprietary document; and (6) Afiex failed to provide a public summary of the proprietary information. Also, on November 2, 2005, the Department placed on the record memoranda to the file stating that the Department had removed Afiex, Thuan Hung, Mekonimex, and Thanh Viet's Q&V responses from the record of this review and returned the responses to the respective company because the Department was unable to consider each company's resubmitted Q&V response for the above reasons.

On November 3, 2005, the Department issued a letter to Tin Thinh regarding the deadline for Tin Thinh's second resubmitted Q&V response.

On November 8, 2005, Thuan Huang resubmitted its Q&V response. On November 9, 2005, Thanh Viet, Mekonimex, and Afiex resubmitted their Q&V responses. On November 9, 2005, the Department issued a letter to Tin Thinh stating that, because the Department's November 3, 2005, letter to Tin Thinh was returned by Fed Ex, Tin Thinh's second resubmitted Q&V response was due on November 16, 2005.

On November 9, 2005, a memorandum to the file was placed by the Department noting that Fed Ex tracking confirmed that the second Q&V letter was delivered to the 16 companies[3] that did not respond to the Department's September 14, 2005, Q&V questionnaire. Additionally, Fed Ex tracking confirmed that the Department's October 5, 2005, and October 6, 2005, letters to Afiex, Danang, Mekonimex, Thanh Viet, and Phu Thanh were delivered to the respective companies.

On November 16, 2005, Afiex submitted a letter clarifying its November 9, 2005, Q&V response. On November 17, 2005, a memorandum to the file was placed on the record by the Department noting that Fed Ex tracking confirmed that the Department's November 2, 2005, letters to Afiex, Danang, Mekonimex, Thanh Viet, Thuan Hung, and Tin Thinh were delivered to the respective companies.

On November 21, 2005, Petitioners submitted comments on respondent selection. On November 21, 2005, the Department sent a letter to Danang rejecting Danang's Q&V response for filing deficiencies. Also, on November 28, 2005, the Department sent a letter to Tin Thinh rejecting Tin Thinh's Q&V response for filing deficiencies.

On November 29, 2005, Petitioners resubmitted their November 21, 2005, comments on respondent selection. On November 30, 2005, the Department issued letters to Mekonimex and Cataco requesting clarification of their reported Q&V data.

On December 7, 2005, Vietnam Fish–One submitted a response to Petitioners' respondent selection comments.

On December 19, 2005, Danang resubmitted a Q&V questionnaire response, explaining that, as a *pro se* company, it attempted to cooperate and misunderstood the Department's filing requirements. In addition, on December 19, 2005, the Department placed a memorandum to the file on the record noting that Cataco's quantity and value clarification response received via email communication was placed on the record.

On December 27, 2005, Cataco submitted a Q&V clarification response.

On December 29, 2005, Petitioners submitted comments on Danang's December 19, 2005, Q&V response and on Cataco's December 27, 2005, Q&V clarification response.

On January 4, 2006, Danang submitted rebuttal comments in response to Petitioners' December 29, 2005, submission.

On January 13, 2006, the Department selected the four largest exporters/producers of subject merchandise during the POR as mandatory respondents: QVD; Cafatex; Mekonimex; and Cataco. *See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from James C. Doyle, Office Director, Office 9, AD/CVD Operations, Import Administration, Subject: Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Selection of Respondents* (January 13, 2006) (''*Respondent Selection Memo*'').

Partial Rescission

On November 21, 2005, Petitioners withdrew their request on the following fourteen exporters that did not individually request a review: Bamboo Food; Caseafex; Gepimex; Hai Vuong; Kien Giang; Phu Thanh; Phuoc My; Seaprodex Saigon; Tan Thanh Loi; Thangloi Frozen Food; Thanh Viet; Thuan Hung; Tin Thinh; and Vifaco. Additionally, Petitioners withdrew their request on the following three companies who had individually requested a review: Afiex; Phan Quan; and Vinh Hoan.

On December 23, 2005, Vinh Hoan withdrew its request for an administrative review. Additionally, on December 23, 2005, H&N Foods International (''H&N''), a U.S. importer of the subject merchandise, requested that the Department extend the deadline for withdrawing requests review in this proceeding by thirty days. On December 27, 2005, Vinh Hoan submitted a letter to the Department requesting that its

[2] The sixteen companies that did not respond to the Department's September 14, 2005, Q&V questionnaire are: (1) Duyen Hai; (2) Gepimex; (3) Hai Vuong; (4) Kien Giang; (5) Thangloi Frozen; (6) Tan Thanh Loi; (7) Thuan Hung; (8) ANTESCO; (9) Seaprodex Saigon; 10) Anhaco; (11) Vinh Long; (12) Vifaco; (13) Tin Thinh; (14) Binh Dinh; (15) Bamboo Food; and (16) Phan Quan.

[3] The sixteen companies are: (1) Duyen Hai; (2) Gepimex; (3) Hai Vuong; (4) Kien Giang; (5) Thangloi Frozen; (6) Tan Thanh Loi; (7) Thuan Hung; (8) ANTESCO; (9) Seaprodex Saigon; (10) Anhaco; (11) Vinh Long; (12) Vifaco; (13) Tin Thinh; (14) Binh Dinh; (15) Bamboo Food; and (16) Phan Quan.

withdrawal letter dated December 23, 2005, be disregarded. Additionally, on December 27, 2005, the Department extended the deadline for withdrawing requests for review in this proceeding by ten days from December 27, 2005, to January 6, 2006.

On January 5, 2006, H&N requested that the Department extend the deadline, which was January 6, 2006, for withdrawing requests in this administrative review until two days after the Department's issuance of its decision regarding respondent selection in this administrative review. On January 9, 2006, Vinh Hoan again withdrew its request for a review in this administrative review. Additionally, on January 11, 2006, Petitioners withdrew their request of two additional companies, Danang and Agifish, both of which did not individually request a review. Moreover, Petitioners also did not object to Vinh Hoan's January 9, 2006, request to withdraw its request for a review.

Subsequently, on February 7, 2006, due to the withdrawal of Petitioners' and Vinh Hoan's review requests, the Department rescinded the review with respect to Agifish; Bamboo Food; Coseafex; Danang; Gepimex; Hai Vuong; Kien Giang; Phu Thanh; Phuoc My; Seaprodex Saigon; Tan Thanh Loi; Thangloi Frozen Food; Thanh Viet; Thuan Hung; Tin Thinh; Vifaco; and Vinh Hoan. Additionally, the Department rescinded the review with respect to Vietnam Fish–One, which reported that it made no shipments of subject merchandise during the POR. *See Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Rescission, in Part, and Extension of Preliminary Results of the Second Antidumping Duty Administrative Review*, 71 FR 6266 (February 7, 2006) (''*Partial Rescission and Extension of Preliminary Results*''). On February 7, 2006, the Department extended the deadline for the preliminary results of this review by 120 days, to August 31, 2006. *Id.*

Mandatory Respondents

On January 17, 2006, the Department sent the non–market economy (''NME'') questionnaire to QVD, Cafatex, Mekonimex and Cataco.

Cataco

On February 3, 2006, the Department placed a memorandum to the file on the record noting that on February 2, 2006, Cataco emailed the Department requesting an extension of time to March 10, 2006, to respond to the Department's NME questionnaire. On February 3, 2006, the Department granted Cataco a one-week extension to respond to the Department's questionnaire.

On February 13, 2006, Cataco submitted its section A response. On February 27, 2006, Cataco submitted a letter requesting a one-week extension to submit its sections C and D questionnaire response. On February 27, 2006, the Department granted Cataco a one-week extension to submit its sections C and D questionnaire response from March 2, 2006, to March 9, 2006.

On March 2, 2006, the Department issued a supplemental section A questionnaire to Cataco. Additionally, on March 6, 2006, Cataco submitted its sections C and D questionnaire response.

On March 14, 2006, the Department placed a memorandum to the file on the record regarding an email from Cataco, which requested a two-week extension to submit its supplemental section A questionnaire response. Additionally, on March 14, 2006, the Department issued a letter to Cataco granting a one-week extension to submit its supplemental section A questionnaire response from March 20, 2006, to March 27, 2006.

On March 20, 2006, a the Department placed a memorandum to the file on the record regarding placing information with respect to Cataco from the first administrative review on the record of this review. Additionally, on March 20, 2006, the Department issued a supplemental sections C and D questionnaire to Cataco.

On March 23, 2006, Cataco submitted its supplemental section A questionnaire response. On April 4, 2006, Cataco requested a two-week extension to submit its supplemental section C questionnaire response. On April 7, 2006, the Department granted Cataco a ten-day extension to submit its supplemental section C questionnaire response from April 10, 2006, to April 20, 2006. On April 17, 2006, Cataco submitted its supplemental sections C and D questionnaire response.

On June 1, 2006, the Department placed a memorandum to the file on the record regarding placing Cataco's entry packages from CBP on the record of this review. Additionally, on June 1, 2006, the Department placed a memorandum to the file on the record regarding DC Lawyers' May 12, 2006, withdrawal as counsel for Cataco. Additionally, on June 14, 2006, the Department issued a second supplemental sections A, C and D questionnaire to Cataco.

On June 28, 2006, Valley Fresh Seafood, Inc. (''Valley Fresh'') submitted a letter to the Department addressing a business proprietary section of Cataco's supplemental questionnaire. On July 3, 2006, Cataco submitted a letter to the Department that it was partially withdrawing from this administrative review and was not responding to the June 14, 2006, supplemental questionnaire.

On July 7, 2006, the Department issued a letter to Valley Fresh that it was rejecting its June 28, 2006, letter, because it contained new factual information. The deadline for submitting factual information was June 1, 2006. Additionally, on July 7, 2006, the Department placed a memorandum to the file on the record removing Valley Fresh's June 28, 2006, letter from the record.

On July 17, 2006, Petitioners submitted a letter requesting that the Department not accept Cataco's July 3, 2006, letter of partial withdrawal. On July 19, 2006, the Department issued a letter rejecting Cataco's partial withdrawal from this review and requested that Cataco submit a full response to the June 14, 2006, supplemental questionnaire.

On July 26, 2006, Valley Fresh submitted a letter to the Department with respect to a business proprietary section of the Department's June 14, 2006, supplemental questionnaire to Cataco. On July 26, 2006, Cataco submitted a letter to the Department stating that, except for a certain business proprietary section, it was not responding to the June 14, 2006, supplemental questionnaire.

On August 1, 2006, the Department issued a letter to Valley Fresh rejecting its July 26, 2006, letter because it contained new factual information. On August 1, 2006, the Department also issued a letter to Cataco rejecting its July 26, 2006 letter and requesting that Cataco resubmit its letter without the attached June 28, 2006, letter from Valley Fresh. Additionally, on August 1, 2006, the Department placed memoranda to the file on the record noting that the July 26, 2006, submissions from Valley Fresh and Cataco had been removed from the record.

On August 3, 2006, Cataco submitted a letter, which contained Valley Fresh's June 28, 2006, letter to the Department requesting that it reconsider its decision to reject Cataco's July 26, 2006, letter. On August 8, 2006, the Department issued a letter to Cataco rejecting its August 3, 2006, letter and requesting that Cataco resubmit the letter without the attached June 28, 2006, letter from Valley Fresh. On August 9, 2006, the Department placed a memorandum to the file on the record removing Cataco's

August 3, 2006, submission from the record.

The Department did not receive a response from Cataco on August 14, 2006, which was the deadline to resubmit. On August 17, 2006, the Department placed a memorandum to the file on the record noting, via telephone communication with Cataco's counsel, that Cataco would not be resubmitting its August 3, 2006, letter.

Cafatex

On January 27, 2006, Cafatex requested a week extension to submit its section A response, which was due on February 7, 2006. On January 31, 2006, the Department granted Cafatex a one-week extension to submit its section A response from February 7, 2006, to February 14, 2006.

On February 14, 2006, DLA Piper Rudnick Gray Cary LLP submitted a letter withdrawing as counsel for Cafatex. On February 16, 2006, the Department issued a letter to Cafatex noting that it had not received Cafatex's section A questionnaire response, which was due on February 14, 2006, and had not received a request for extension. In the letter, the Department requested that, if Cafatex intended to remain in the review, it should submit its section A questionnaire response.

On February 27, 2006, the Department placed a memorandum to the file on the record noting that in a facsimile dated February 21, 2006, Cafatex confirmed its decision not to participate in the instant administrative review.

Mekonimex

On February 8, 2006, the Department issued a letter to Mekonimex noting that because the Department did not receive Mekonimex's section A response, which was due on February 7, 2006, the deadline to submit its section A response was extended to February 13, 2006. On February 15, 2006, Mekonimex submitted two letters stating that it would no longer participate and that it was withdrawing from this review.

QVD

On January 30, 2006, QVD requested a two-week extension to submit its section A response, which was due on February 7, 2006. On January 31, 2006, the Department granted QVD a week extension to submit its section A response from February 7, 2006, to February 14, 2006.

On February 13, 2006, QVD requested a three-week extension to submit its section C and D response.

On February 14, 2006, QVD submitted its section A response. Also, on February 14, 2006, the Department granted QVD a week extension to submit its sections C and D response from February 22, 2006, to March 1, 2006.

On February 21, 2006, QVD requested a two-week extension to submit its sections C and D response. On February 23, 2006, Department granted QVD a week extension to submit its sections C and D response from March 1, 2006, to March 8, 2006.

On March 8, 2006, QVD submitted its sections C and D questionnaire response. Additionally, on March 9, 2006, the Department issued a supplemental section A questionnaire to QVD.

On March 20, 2006, QVD requested a two-week extension to submit its supplemental section A questionnaire response. On March 20, 2006, the Department granted QVD a ten-day extension to submit its supplemental section A questionnaire response from March 30, 2006, to April 10, 2006.

On March 21, 2006, the Department issued a supplemental sections C and D questionnaire to QVD. Additionally, on March 30, 2006, a memorandum to the file was placed by the Department regarding QVD's supplemental section C questionnaire.

On April 4, 2006, QVD requested a three-week extension to submit its supplemental section C questionnaire response. On April 5, 2006, the Department granted QVD a ten-day extension to submit its supplemental section C questionnaire response from April 10, 2006, to April 20, 2006.

On April 10, 2006, QVD submitted its supplemental section A questionnaire response. On April 11, 2006, QVD requested a three-week extension to submit its supplemental section D questionnaire response. On April 12, 2006, the Department granted QVD a ten-day extension to submit its supplemental section D questionnaire response from April 18, 2006, to April 28, 2006.

On April 19, 2006, QVD requested a one-week extension to submit its supplemental section C questionnaire response. Additionally, on April 19, 2006, the Department granted QVD a one-week extension to submit its supplemental section C questionnaire response from April 20, 2006, to April 28, 2006.

On April 24, 2006, QVD requested a one-week extension to submit its supplemental section D questionnaire response. On April 25, 2006, the Department granted QVD a one-week extension to submit its supplemental section D questionnaire response from April 28, 2006, to May 5, 2006.

On April 28, 2006, QVD submitted its supplemental section C questionnaire response. On May 5, 2006, QVD submitted its supplemental section D questionnaire response. Additionally, on May 31, 2006, the Department issued a second supplemental section D questionnaire to QVD.

On June 9, 2006, QVD requested a three-week extension to submit its second supplemental section D questionnaire response. On June 13, 2006, the Department granted QVD a ten-day extension to submit its second supplemental section D questionnaire response from June 14, 2006, to June 26, 2006.

On June 16, 2006, the Department placed QVD's entry packages from CBP on the record of this review. On June 19, 2006, Petitioners submitted deficiency comments on QVD's sections A and C questionnaire responses.

On June 23, 2006, the Department issued a second supplemental section A and C questionnaire to QVD. On June 27, 2006, QVD submitted its second supplemental section D questionnaire response.

On July 12, 2006, the Department issued a third supplemental section D questionnaire to QVD. On July 18, 2006, QVD requested a ten-day extension to submit its third supplemental section D questionnaire response.

On July 19, 2006, the Department granted QVD a six-day extension to submit its third supplemental section D questionnaire response from July 26, 2006, to August 1, 2006.

On July 21, 2006, the Department issued a fourth supplemental section D questionnaire to QVD. Additionally, on July 21, 2006, QVD submitted its second supplemental sections A and C questionnaire response.

On July 26, 2006, the Department issued a third supplemental section A and C questionnaire to QVD. On August 1, 2006, QVD submitted its third and fourth supplemental section D questionnaire responses.

On August 1, 2006, QVD requested a five-day extension to submit its third supplemental section A and C questionnaire response. On August 2, 2006, the Department granted QVD a four-day extension to submit its section A and C questionnaire response from August 4, 2006, to August 8, 2006.

On August 2, 2006, QVD submitted a letter to the Department with respect to an attachment that was missing from its August 1, 2006, third and fourth supplemental section D questionnaire responses. On August 2, 2006, the Department issued a fifth supplemental section D questionnaire to QVD.

On August 8, 2006, QVD submitted its fifth supplemental section D questionnaire response. On August 9, 2006, QVD submitted its third supplemental sections A and C questionnaire responses.

On August 14, 2006, the Department issued a letter to QVD regarding its section C database requesting the downstream sales to Customer A. On August 21, QVD submitted its section C database response. Additionally, on August 22, 2006, QVD submitted rebuttal pre–preliminary comments.

Separate Rate Respondents

As noted above, on January 13, 2006, the Department selected four mandatory respondents. On January 18, 2006, the Department sent section A of the Department's NME questionnaire to the three remaining separate rate respondents: Afiex, Navico and Phan Quan.

Afiex

On February 3, 2006, Afiex requested a one-week extension to submit its section A response, which was due on February 7, 2006. On February 6, 2006, the Department granted Afiex a one-week extension to submit its section A response from February 7, 2006, to February 14, 2006.

On February 13, 2006, Afiex requested a second extension of three days to submit its section A response. On February 14, 2006, the Department granted Afiex a three-day extension to submit its section A response from February 14, 2006, to February 17, 2006. On February 17, 2006, Afiex submitted a section A response.

On March 2, 2006, the Department issued a supplemental section A questionnaire to Afiex. On March 14, 2006, Afiex requested a one-week extension to submit its supplemental section A questionnaire response. Additionally, on March 16, 2006, the Department granted Afiex a one-week extension to submit its supplemental section A questionnaire response from March 23, 2006, to March 30, 2006.

On March 29, 2006, Afiex requested a second one-week extension to submit its supplemental section A questionnaire response. On March 30, 2006, the Department granted Afiex a four-day extension to submit its supplemental section A questionnaire response from March 30, 2006, to April 3, 2006.

On April 4, 2006, Afiex submitted its supplemental section A questionnaire response. On April 5, 2006, Afiex requested an extension to submit documents that were not available when it submitted the supplemental section A questionnaire response from April 4, 2006, to April 10, 2006. On April 6, 2006, the Department issued a letter to Afiex extending the deadline until April 10, 2006. Additionally, in the letter to Afiex, the Department issued a second supplemental section A questionnaire.

On April 10, 2006, Afiex requested an extension of two days to submit its second supplemental section A questionnaire response. On April 11, 2006, the Department granted Afiex a one-day extension to submit its supplemental Section A questionnaire response from April 10, 2006, to April 11, 2006. Additionally, on April 11, 2006, Afiex submitted its second supplemental section A questionnaire response.

On July 7, 2006, the Department issued a third supplemental section A questionnaire to Afiex. On July 28, 2006, Afiex submitted a letter to the Department that it was both not responding to third supplemental section A questionnaire and withdrawing from this review.

Navico

On January 27, 2006, Navico requested a one-week extension to submit its section A response, which was due on February 7, 2006. On January 31, 2006, the Department granted Navico a one-week extension to submit its section A response from February 7, 2006, to February 14, 2006.

On February 16, 2006, the Department issued a letter to Navico noting that it had not received Navico's section A questionnaire response, which was due on February 14, 2006, and had not received a request for extension. In the letter, the Department requested that, if Navico intended to remain in the review, it should submit its section A questionnaire response.

On February 27, 2006, the Department issued a second letter to Navico requesting that, if Navico intended to remain as a separate rates respondent, Navico should submit a section A response by March 3, 2006. Additionally, in the letter, the Department requested that if Navico was not going to submit a response, Navico should submit a letter confirming its decision to not participate in this review.

On March 7, 2006, the Department place a memorandum to the file on the record by the Department noting that via an e–mail received on March 6, 2006, Navico confirmed its decision not to participate in this administrative review.

Phan Quan

On February 3, 2006, Phan Quan requested a one-week extension to submit its section A response. On February 6, 2006, the Department granted Phan Quan a one-week extension to submit its section A response from February 7, 2006, to February 14, 2006.

On February 13, 2006, Phan Quan requested a second extension of three days to submit its section A response. On February 14, 2006, the Department granted Phan Quan a three-day extension to submit its section A response from February 14, 2006, to February 17, 2006.

On February 17, 2006, Phan Quan submitted its section A response. Also on February 21, 2006, Phan Quan submitted a letter that included attachments supplementing its section A response.

On March 28, 2006, the Department issued a supplemental section A questionnaire to Phan Quan.

On April 19, 2006, the Department issued a letter to Phan Quan noting that it had not received a response from Phan Quan for its supplemental section A questionnaire response, which was due on April 18, 2006. In the letter, the Department granted Phan Quan a second, final opportunity to submit its supplemental section A questionnaire response by April 21, 2006. On April 26, 2006, Phan Quan submitted a letter to the Department that it was not responding to the supplemental section A questionnaire and withdrawing from this review.

Surrogate Country and Surrogate Values

On January 18, 2006, the Department placed a memorandum to the file on the record extending the deadline for submission of factual information by 50 days from January 18, 2006, to March 9, 2006. On January 23, 2006, the Department issued a letter to the interested parties requesting comments on surrogate country selection.

On February 27, 2006, Petitioners requested an extension of time to submit comments on submission of factual information, comments on surrogate country selection, and publicly available information to value factors of production. On March 1, 2006, the Department issued a memorandum to the file extending these deadlines to May 1, 2006.

On April 26, 2006, Petitioners and QVD requested extensions to place factual information on the record, comments on surrogate country selection, and publicly available information to value factors of production. On April 27, 2006, the Department issued a letter extending these deadlines to June 1, 2006.

On June 1, 2006, Petitioners and QVD submitted factual information. On June 1, 2006, Petitioners and QVD also submitted surrogate value information for the Department to consider for these preliminary results. Also, on June 1, 2006, Petitioners submitted comments on surrogate country selection. No other party submitted surrogate country comments.

On June 12, 2006, Petitioners submitted rebuttal comments on the surrogate value information submitted by QVD.

On August 1, 2006, the Department selected Bangladesh as the surrogate country. On August 15, 2006, Petitioners submitted pre–preliminary comments.

Scope of the Order

The product covered by this order is frozen fish fillets, including regular, shank, and strip fillets and portions thereof, whether or not breaded or marinated, of the species *Pangasius Bocourti*, *Pangasius Hypophthalmus* (also known as *Pangasius Pangasius*), and *Pangasius Micronemus*. Frozen fish fillets are lengthwise cuts of whole fish. The fillet products covered by the scope include boneless fillets with the belly flap intact (''regular'' fillets), boneless fillets with the belly flap removed (''shank'' fillets), boneless shank fillets cut into strips (''fillet strips/finger''), which include fillets cut into strips, chunks, blocks, skewers, or any other shape. Specifically excluded from the scope are frozen whole fish (whether or not dressed), frozen steaks, and frozen belly–flap nuggets. Frozen whole dressed fish are deheaded, skinned, and eviscerated. Steaks are bone–in, cross-section cuts of dressed fish. Nuggets are the belly–flaps. The subject merchandise will be hereinafter referred to as frozen ''basa'' and ''tra'' fillets, which are the Vietnamese common names for these species of fish. These products are classifiable under tariff article code 0304.20.60.33 (Frozen Fish Fillets of the species *Pangasius* including basa and tra) of the Harmonized Tariff Schedule of the United States (''HTSUS'').[4] This order covers all frozen fish fillets meeting the above specification, regardless of tariff classification. Although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of the *Order* is dispositive.

Affiliations

Section 771(33) of the Act states that the Department considers the following as affiliated: (A) Members of a family, including brothers and sisters (whether by the whole or half blood), spouse, ancestors, and lineal descendants; (B) any officer or director of an organization and such organization; (C) partners; (D) employer and employee; (E) any person directly or indirectly owning, controlling, or holding with power to vote, five percent or more of the outstanding voting stock or shares of any organization and such organization; (F) two or more persons directly or indirectly controlling, controlled by, or under common control with, any person; and (G) any person who controls any other person and such other person. For purposes of affiliation, section 771(33) of the ACT states that a person shall be considered to control another person if the person is legally or operationally in a position to exercise restraint or direction over the other person.

Based on the evidence on the record in this administrative review, we preliminarily find that QVD is affiliated with Dong Thap Food Co., Ltd. (''Dong Thap'') and Company A,[5] pursuant to section 771(33) of the Act. For a detailed discussion of our analysis, please *see Memorandum to James C. Doyle, Office Director, Office 9, through Alex Villanueva, Program Manager, Office 9, from Julia Hancock, Case Analyst, Subject: QVD Affiliations Memorandum: 2nd Administrative Review of Certain Frozen Fish Fillets*, (August 31, 2006) (''*Affiliation and Collapsing Memo*''). In addition, based on the evidence presented in QVD's questionnaire responses, we preliminarily find that QVD, Dong Thap, and Company A should be treated as a single entity for purposes of this administrative review. *See* 19 CFR 351.401(f)(1); *see also*, *Affiliation and Collapsing Memo* for a discussion of the proprietary aspects of this relationship. With respect to the criterion of significant potential for manipulation of price of production, we note that the Department normally considers three factors: (1) The level of common ownership; (ii) the extent to which managerial employees or board members of one firm sit on the board of directors of an affiliated firm; and (iii) whether operations are intertwined, such as through the sharing of sales, information, involvement in production and pricing decisions, the sharing of facilities or employees, or significant transactions between the affiliated producers. *See* 19 CFR 351.401(f)(2).

Vietnamese Entities

Based on the information on the record of this proceeding, we preliminarily find that QVD, Dong Thap, and Company A should be collapsed. Accordingly, the Department should include the factors of production for Company A in the Department's calculation of QVD's normal value (''NV''). However, the Department does not currently have this information on the record of the proceeding. Therefore, the Department will request this information from QVD after the issuance of these preliminary results. Additionally, we will be issuing an amended preliminary calculation for comment after we receive Company A's factors of production. Due to the proprietary nature of the information with respect to these affiliates, this information cannot be discussed herein. *See Affiliation and Collapsing Memo* for a further discussion of this issue.

In addition, we preliminary find that Choi Moi Farming Cooperative (''Choi Moi'') is affiliated with QVD pursuant to section 771(33) of the Act. *See Affiliation and Collapsing Memo* for a further discussion of this issue. However, we preliminary find that although Choi Moi is affiliated with QVD, the collapsing criteria are not satisfied and therefore, Choi Moi has not been collapsed with QVD. *Id.*

We also preliminarily find that Company B[6] and QVD are not affiliated, pursuant to section 771(33) of the Act. *Id.*

United States Entities

We preliminarily find that QVD and QVD USA LLC (''QVD USA'') are affiliated pursuant to section 771(33) of the Act. *Id.*

Although the Department received relevant information from QVD USA regarding its relationship with Customer A[7] on August 21, 2006, ten days prior

[4] Until July 1, 2004, these products were classifiable under tariff article codes 0304.20.60.30 (Frozen Catfish Fillets), 0304.20.60.96 (Frozen Fish Fillets, NESOI), 0304.20.60.43 (Frozen Freshwater Fish Fillets) and 0304.20.60.57 (Frozen Sole Fillets) of the HTSUS.

[5] Because Company A's identity is business proprietary, it cannot be disclosed in this notice. *See Affiliation and Collapsing Memo* for further information.

[6] Because Company B's identity is business proprietary, it cannot be disclosed in this notice. *See Affiliation and Collapsing Memo* for further information.

[7] Because Customer A's identity is business proprietary, it cannot be disclosed in this notice. *See Memorandum from Julia Hancock, Case Analyst, to Alex Villanueva, Program Manager, Import Administration, Subject: 2nd Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results Analysis Memo for QVD Food Company*, (August 31, 2006) (''*QVD Analysis Memo*'') for further information.

to the deadline to issue the preliminary results, the Department was unable to consider this information for these preliminary results of review. For the final results of review, however, the Department will fully consider the information submitted by QVD USA on August 21, 2006, and possibly request additional information on the relationship with QVD USA and Customer A. For these preliminary results, the Department will include QVD USA's sales to Customer A in the margin calculation for QVD. However, in the event the Department finds Customer A and QVD USA affiliated, the Department intends to request the relevant sales to the first unaffiliated U.S. customer after such finding. If parties fail to provide such data, the Department may apply facts available, with an adverse inference, to QVD USA's CEP sales to Customer A for the final results of this review.

On February 14, 2006, QVD stated that it was affiliated with Beaverstreet Fisheries Inc. (''BSF'') and provided a CEP sales database which contained the sales from BSF to the first unaffiliated U.S. customer. For these preliminary results, the Department is treating QVD USA and BSF as affiliated entities and will characterize BSF sales' as CEP sales in the margin calculation for QVD for these preliminary results. However, the Department notes that there is insufficient time to evaluate whether the claim of affiliation properly fulfills the statutory criteria of section 771(33) of the Act. Accordingly, the Department intends to request further information regarding QVD USA's affiliation with BSF, which may affect the use of these sales and the margin calculation in the final results of this review. The Department also intends to request information on the sales from QVD USA to BSF.

Separate Rates Determination

In the less–than-fair–value (''LTFV'') investigation and the first administrative review for this Order, the Department treated Vietnam as a non–market economy (''NME'') for antidumping purposes. It is the Department's policy to assign all exporters of the merchandise subject to review that are located in NME countries a single antidumping duty rate unless an exporter can demonstrate an absence of governmental control, both in law (*de jure*) and in fact (*de facto*), with respect to its export activities. To establish whether an exporter is sufficiently independent of governmental control to be entitled to a separate rate, the Department analyzes the exporter using the criteria established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as amplified in the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''). Under the separate rates criteria established in these cases, the Department assigns separate rates to NME exporters only if they can demonstrate the absence of both *de jure* and *de facto* governmental control over their export activities.

Absence of De Jure Control

Evidence supporting, though not requiring, a finding of the absence of *de jure* governmental control over export activities includes: (1) An absence of restrictive stipulations associated with an individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and (3) any other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

In the LTFV investigation for this case, the Department granted separate rates to the four mandatory respondents, Cataco, Cafatex, Mekonimex, and QVD, and two of the separate rate respondents, Afiex and Navico. *See Notice of Final Antidumping Duty Determination of Sales at Less Than Fair Value and Affirmative Critical Circumstances: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 68 FR 37116 (June 23, 2003) and accompanying Issues and Decision Memorandum at Comments 5 and 6 (''*LTFV FFF Final Determination*''). Additionally, in the first administrative review of this case, the Department did not grant a separate rate to the other separate rate respondent, Phan Quan, because it stopped participating in that review. *See Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 70 FR 54007 (September 13, 2005) (''*1st Review Prelim*''). However, it is the Department's policy to evaluate separate rates questionnaire responses each time a respondent makes a separate rates claim, regardless of whether the respondent received a separate rate in the past. *See Manganese Metal From the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12441 (March 13, 1998).

In this review only QVD submitted complete responses to the separate rates section of the Department's NME questionnaire. The evidence submitted by QVD includes government laws and regulations on corporate ownership, business licenses, and narrative information regarding its company's operations and selection of management. The evidence provided by QVD supports a finding of a *de jure* absence of governmental control over its export activities because: (1) There are no controls on exports of subject merchandise, such as quotas applied to, or licenses required for, exports of the subject merchandise to the United States; and (2) the subject merchandise does not appear on any government list regarding export provisions or export licensing.

Absence of De Facto Control

The absence of *de facto* governmental control over exports is based on whether the Respondent: (1) Sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59 FR at 22587; *Sparklers*, 56 FR at 20589; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

In its questionnaire responses, QVD submitted evidence indicating an absence of *de facto* governmental control over its export activities. Specifically, this evidence indicates that: (1) The company sets its own export prices independent of the government and without the approval of a government authority; (2) the company retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) the company has a general manager, branch manager or division manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors or company employees, and the general manager appoints the deputy managers and the manager of each department; and (5) foreign currency does not need to be sold to the government. Therefore, the Department has preliminarily found that QVD has established *primae facie* that it qualifies for a separate rate under the criteria established by *Silicon Carbide* and *Sparklers*.

As discussed below, the Department is not granting the other three mandatory respondents, Cataco, Cafatex, and Mekonimex, and the three separate rate respondents, Afiex, Phan Quan, and Navico, a separate rate because these respondents withdrew from participating in this review. As a result, we cannot verify the separate rate information that Afiex, Cataco, and Phan Quan submitted in their respective questionnaire responses. Moreover, Afiex, Cataco, and Phan Quan, each failed to respond to the supplemental questionnaire issued by the Department that requested clarification on their respective submitted separate rate information. With respect to Cafatex, Mekonimex, and Navico, we did not receive separate rate information for consideration in these preliminary results.

Adverse Facts Available

Section 776(a)(2) of the Act, provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Furthermore, section 776(b) of the Act states that ''if the administrating authority finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission (as the case may be), in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act (''URAA''), H.R. Rep. No. 103–316 at 870 (1994).

In the instant review, three of the mandatory respondents, (*i.e.*, Cataco, Cafatex, and Mekonimex), the three separate rate respondents, (*i.e.*, Navico, Afiex and Phan Quan), and four other companies under review, (*i.e.*, Antesco, Anhaco, Binh Dinh, and Vinh Long), significantly impeded our ability to complete this administrative review pursuant to section 751 of the Act, and one mandatory respondent, Cataco, significantly impeded our ability to impose the correct antidumping duties, as mandated by section 731 of the Act. As discussed below, we preliminarily find that each company's failure to cooperate with the Department to the best of their ability in responding to the Department's request for information warrant the use of adverse facts available (''AFA'') in determining dumping margins for their sales of merchandise subject to this Order.

Mekonimex and Cafatex

As discussed in the ''Case History'' above, on January 17, 2006, the Department issued questionnaires to Mekonimex and Cafatex. The deadlines for Mekonimex and Cafatex to file a response to Section A of the questionnaire were February 7, 2006, and February 14, 2006, respectively. The Department did not receive a questionnaire response from either company. Instead, Mekonimex submitted two letters on February 15, 2006, stating that it was not going to participate and was withdrawing from the review. Cafatex faxed a letter, in response to the Department's February 16, 2006, letter of Cafatex's non–response, on February 21, 2006, stating that it was not going to participate in the administrative review. Therefore, we find that facts available are warranted for both Mekonimex and Cafatex in accordance with sections 776(a)(2)(A), (B) and (C) of the Act.

By each company stating that they would no longer participate, both Mekonimex and Cafatex explicitly impeded this proceeding. Because both Mekonimex and Cafatex withdrew from the current administrative review with critical data potentially relevant to separate rates still outstanding, the Department was prevented from conducting a thorough separate rates analysis or from verifying either Mekonimex's or Cafatex's information. Because both Cafatex and Mekonimex did not respond to the Department's NME questionnaire, the Department has no information on the record with which to calculate an antidumping margin or determine if either is eligible for a separate rate in this proceeding. Therefore, we find that both Mekonimex and Cafatex have not demonstrated that each is entitled to a separate rate and thus, each is deemed to be included in the Vietnam–wide entity. By withdrawing from this administrative review over a month after the Department's established deadline, which was January 6, 2006, rather than submitting a response to the Department's NME questionnaires, both Mekonimex and Cafatex have failed to cooperate to the best of their ability in this proceeding. Accordingly, since both Mekonimex and Cafatex significantly impeded the proceeding and failed to cooperate to the best of their ability, the application of AFA is appropriate, pursuant to section 776(b) of the Act.

Cataco

During the first administrative review, the Department found Cataco had entered into an reimbursement agreement with Customer B.[8] *See Memorandum from Julia Hancock, Case Analyst, to Alex Villanueva, Program Manager, Import Administration, Subject: 2nd Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results Analysis Memo for Can Tho Agricultural and Animal Products Import Export Company (''Cataco'')*, (August 31, 2006) (''*Cataco Analysis Memo*''); *1st Supplemental Section C Questionnaire to Cataco*, (March 20, 2006) at Attachment 2 (*Memorandum to the File, from Alex Villanueva, Program Manager, NME Office 9, RE: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Verification Report Change*, (March 13, 2006)). Specifically, the Department noted that these reimbursement ''agreements stated that Cataco would reimburse any antidumping duties {on basa and tra} exceeding X,''[9] and that these reimbursement ''agreements did not specify an expiration date.'' *See 1st Supplemental Section C Questionnaire to Cataco*, at Attachment 2. A day after the Department made this discovery, Cataco withdrew from verification. Accordingly, Cataco received AFA in the final results of the first administrative review because of its termination of verification and as part of the adverse inference, the Department determined that ''the reimbursement verification findings should be applied to Cataco for cash deposit and assessment purposes.'' *See Notice of Final Results of the First Administrative Review: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam*, 71 FR 14170 (March 21, 2006) and accompanying Issues and Decisions Memorandum at Comments 1 and 2 (''*1st AR FFF Final*'').

In this administrative review, Cataco admitted from the onset that it sold subject merchandise under other commercial names, including ''frozen grouper'' and ''frozen seafood.'' *See Cataco's Quantity and Value*

[8] Because this information is business proprietary, please *see Cataco Analysis Memo* for further information on Customer B.

[9] Because this information is business proprietary, please *see Cataco Analysis Memo*.

Questionnaire Response, (September 30, 2005) at 1–2; *Cataco's Section A Questionnaire Response*, (February 10, 2006) at Exhibit A–1. However, on June 1, 2006, the Department placed on the record entry packages from U.S. Customs Border and Protection (CBP) of all entries, classified as HTS 304206033, 304206043, 304206057, 304206070, 304206096, that were manufactured by Cataco and entered into the United States during the POR. A review of the entry packages showed a discrepancy between Cataco's reported quantity and value (''Q&V'') of sales of subject merchandise under other commercial names, ''frozen grouper'' and ''frozen seafood,'' and the Q&V of its CBP entries of ''frozen grouper'' to Customer B. *See Cataco's Section A Questionnaire Response* at Exhibit A–1; *Cataco's 2nd Supplemental Section A and C Questionnaire*, (June 14, 2006) at 12–13 (''*Cataco's 2nd Questionnaire*''). Moreover, the Department noted that CBP issued a Notice of Request for Information and a Notice of Action to Cataco's Customer B that certain entries needed to be reclassified as subject merchandise. *See Cataco's 2nd Questionnaire*, at 13; *Memorandum to the File, from Julia Hancock, Case Analyst, Subject: 2nd Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): Customs Data for Can Tho Agricultural and Animal Products Import Export Company*, (June 1, 2006). Based on the apparent discrepancies with Cataco's reported Q&V of sales of subject merchandise under other commercial names, and other issues, including Cataco's affiliate and reimbursement of antidumping duties, the Department issued a supplemental questionnaire to Cataco on June 14, 2006, which was due on July 5, 2006.

On July 3, 2006, Cataco submitted a letter to the Department that it would not be submitting a response to *Cataco's 2nd Questionnaire*. In the letter, Cataco also stated that it was ''withdrawing from the current administrative review for all issues except that of reimbursement of antidumping duties.'' *See Cataco's Letter to the Department, RE: June 14, 2006, Supplemental Questionnaire*, (July 3, 2006) at 1–2. However, on July 19, 2006, the Department issued a letter to Cataco stating that Cataco could not partially withdraw from this administrative review. By granting Cataco's partial withdrawal, the Department would have allowed Cataco to ''control the results of the administrative review by {only} granting partial information'' on reimbursement. *See Krupp Stahl A.G., et. al vs. United States*, 822 F. Supp 789, 792 (CIT 1993). Accordingly, the Department granted Cataco a final opportunity to submit a full response to *Cataco's 2nd Questionnaire* by July 26, 2006.

On July 26, 2006, Cataco submitted a letter to the Department stating that it had never entered into a ''reimbursement agreement'' with its U.S. customer, Valley Fresh, and that it would not be submitting a response to the entirety of *Cataco's 2nd Questionnaire*. Additionally, Cataco submitted a June 28, 2006, letter from its customer, Valley Fresh. However, the Department rejected Cataco's July 26, 2006, letter as containing untimely, new information, pursuant to section 351.301(b)(2) of the Department's regulations, because Valley Fresh's letter had previously been rejected as new information. *See Letter from the Department to Matthew McConkey*, (August 1, 2006) at 1–2. Specifically, the deadline for submitting factual information was June 1, 2006, and as such, Valley Fresh's letter was received twenty–seven days after the deadline.

Instead of resubmitting its letter without the letter from Valley Fresh, Cataco submitted a letter on August 3, 2006, that contained this submission. In its August 3, 2006, letter, Cataco stated that it was including the letter from Valley Fresh because it was ''directly relevant to the {reimbursement} questions raised'' in the Department's June 14, 2006, supplemental questionnaire. *See Letter from Alex Villanueva, Program Manager, Import Administration, to Matthew McConkey*, (August 8, 2006) at 2. After review of Cataco's letter, the Department issued a letter to Cataco requesting that it resubmit its August 3, 2006, letter without the attached submission from Valley Fresh. Specifically, the Department noted the reimbursement questions from *Cataco's 2nd Questionnaire*, requested that Cataco provide information on its commercial relationships with specific importers, not Valley Fresh. Accordingly, the Department continued to find that the letter from Valley Fresh was new information and requested that Cataco resubmit its August 3, 2006, letter without the letter from Valley Fresh by August 11, 2006. The Department did not receive a response from Cataco on August 11, 2006.

Based upon Cataco's refusal to submit a full response to *Cataco's 2nd Questionnaire*, the Department finds that Cataco failed to provide the information in a timely manner and in the form requested and significantly impeded this proceeding, pursuant to sections 776(a)(2)(B) and 776(a)(2)(C) of the Act. Specifically, the Department twice granted Cataco the opportunity to submit a full response to Cataco's 2nd Questionnaire. Cataco decided not to: (1) submit a response to *Cataco's 2nd Questionnaire*, but rather attempt to partially withdraw from this review except with respect to reimbursement; and (2) respond to the entirety of *Cataco's 2nd Questionnaire* except regarding those questions on reimbursement. Additionally, the Department notes that statements submitted by Cataco on reimbursement were incomplete because Cataco did not submit information requested on the specific importers, including Cataco's Customer B. See *Cataco's 2nd Questionnaire*, at 22–23. Accordingly, the Department finds that Cataco failed to provide a full response to *Cataco's 2nd Questionnaire* in a timely manner. Moreover, the Department finds that Cataco has significantly impeded this proceeding by picking and choosing the questions that it would respond to from *Cataco's 2nd Questionnaire*. Specifically, antidumping law ''does not permit a party to pick and choose information it wishes to present'' to the Department. *See Brother Industries, Ltd. vs. United States*, 771 F. Supp. 374, 383 (CIT 1991). Furthermore, the questions that Cataco refused to answer, specifically questions regarding reimbursement from Customer B and the discrepancies in Cataco's reported sales of ''frozen grouper'' and ''frozen seafood,'' needed to be answered in order for the Department to calculate a margin for Cataco for these preliminary results. Because Cataco refused to submit a full response to *Cataco's 2nd Questionnaire*, the application of facts available is warranted, pursuant to sections 776(a)(2)(B) and 776(a)(2)(C) of the Act.

Further, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* Statement of Administrative Action (''SAA'') accompanying the URAA, H.R. Doc. No. 316, 103d Cong., 2d Session at 870 (1994). An adverse inference may include reliance on information derived from the petition, the final determination in the investigation, any

previous review, or any other information placed on the record. *See* section 776(b) of the Act.

For these preliminary results, the Department finds that Cataco has failed to cooperate to the best of its ability. Specifically, the Department finds that Cataco did not respond to the Department's request for clarification on certain issues, including its reported sales of ''frozen grouper'' and ''frozen seafood'' and whether it reimbursed certain importers, as requested in *Cataco's 2nd Supplemental Questionnaire*. *See Nippon Steel Corp. v. United States*, 337 F. 3d 1373, 1377 (Fed. Cir. 2003) (''*Nippon Steel*''). Because Cataco refused to answer the entirety of *Cataco's 2nd Supplemental Questionnaire*, the Department finds that Cataco has failed to cooperate to the best of its ability, pursuant to section 776(b) of the Act.

As an adverse inference, the Department is assigning to Cataco's sales of subject merchandise an individual rate of 80.88 percent, which is the highest established rate on the record of this proceeding, and, we note, the rate applied to Cataco in the first administrative review. *See 1st AR FFF Final*, 71 FR 14170 at Comments 1 and 2. During the course of this administrative review, Cataco was unable to provide information regarding the reimbursement agreements, found at the verification of the first administrative review, which had no expiration date, and were not still in effect during this administrative review. Therefore, inclusive in our adverse inference is a presumption that Cataco continued to reimburse antidumping duties during this POR.

While it would be consistent with the Department's normal practice for Cataco to be subject to the same rate as all other exporters that are part of the Vietnam–Wide Entity, because Cataco failed to cooperate to the best of its ability and significantly impeded this proceeding, and because as AFA, the Department presumes Cataco's agreement to reimburse its importer(s) continued throughout this POR, Cataco is receiving the individual rate of 80.88 percent. The Department finds that, for cash deposit purposes, it must take into account the reimbursement provision and assign Cataco an individual rate for future entries. Reimbursement, however, is necessarily exporter–importer specific, and is treated as a unique adjustment. Moreover, the reimbursement adjustment is exogenous to the normal calculation of the dumping margin. Therefore, in order to properly account for reimbursement, the Department has adjusted Cataco's cash deposit and assessment rates, but not applied the adjustment to the rest of the Vietnam–Wide Entity. Consequently, the cash deposit rate assigned to Cataco for these preliminary results is 80.88 percent. *See Cataco Analysis Memo*.

ANTESCO, Anhaco, Binh Dinh, and Vinh Long

We note, as mentioned in the ''Case History'' section above, the Department initiated this administrative review with respect to 29 companies, including ANTESCO, Anhaco, Binh Dinh, and Vinh Long. On September 14, 2005, we issued a Q&V questionnaire to all of the companies identified in the notice of initiation. *See Initiation Notice*. On February 7, 2006, the Department rescinded, in part, the review on 18 of the 29 companies, but noted that 11 companies, including ANTESCO, Anhaco, Binh Dinh, and Vinh Long, were still subject to review. *See Partial Rescission and Extension of Preliminary Results*. Further, each of these companies identified in our notice of rescission did not respond to our September 14, 2005, Q&V questionnaire nor did these companies respond to the Department's second Q&V questionnaire issued to these companies on October 6, 2006. The Department placed information on the record confirming the delivery of the first and second Q&V questionnaire to each company. *See Memorandum to the File, through Cindy Robinson, Acting Program Manager, from Julia Hancock, Case Analyst, Subject: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): Initial Questionnaires Timeline*, (September 28, 2005); *Memorandum to the File, through Alex Villanueva, Program Manager, from Julia Hancock, Case Analyst, Subject: Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): 2nd Q&V Questionnaire Timeline*, (November 9, 2005).

Because these four companies were non–responsive to the Department's two requests for Q&V information, the Department finds that they are not entitled to a separate rate. Additionally, by neither responding to the Department's first nor second Q&V questionnaire, each company failed to provide critical information to be used for the Department's respondent selection process. Therefore, pursuant to sections 776(a)(2)(A)(B) and (C), the Department finds that facts available is appropriate. In addition, pursuant to section 776(b) of the Act, the Department may apply adverse facts available if it finds a respondent has failed to cooperate by not acting to the best of its ability to comply with a request for information from the Department. By failing to respond to the Department's first and second Q&V questionnaire, ANTESCO, Anhaco, Binh Dinh, and Vinh Long have failed to act to the best of their ability in this segment of the proceeding. Moreover, because ANTESCO, Anhaco, Binh Dinh, and Vinh Long did not participate in the respondent selection exercise, the Department did not send them a questionnaire and was unable to determine whether or not they qualified for a separate rate. Therefore, ANTESCO, Anhaco, Binh Dinh, and Vinh Long are not eligible to receive a separate rate and will be part of the Vietnam–wide entity, subject to the Vietnam–wide rate.

Afiex

Between February and April 2006, the Department issued two supplemental questionnaires to Afiex regarding their response to section A of the Department's NME questionnaire. On July 7, 2006, the Department issued a third supplemental section A questionnaire to Afiex. However, on July 28, 2006, Afiex submitted a letter stating that it was not submitting a response and was withdrawing from this administrative review. Therefore, pursuant to sections 776(a)(2)(A)(B) and (C) of the Act, the Department finds that facts available is appropriate.

Because Afiex failed to submit a questionnaire response critical data potentially relevant to separate rates remain. Therefore, the Department was prevented from conducting a thorough separate rates analysis of Afiex's information. Therefore, we find that Afiex has not demonstrated that it is entitled to a separate rate and is thus deemed to be included in the Vietnam–wide entity. Moreover, Afiex has failed to cooperate to the best of its ability. Accordingly, since Afiex both significantly impeded the proceeding and failed to cooperate to the best of its ability, the application of AFA is appropriate, pursuant to sections 776(a)(2)(A) and (b) of the Act.

Navico

As discussed in the ''Case History'' section above, on January 18, 2006, the Department sent section A of the Department's NME questionnaire to Navico. The deadline for Navico to file a response to section A of the NME questionnaire was February 14, 2006, but the Department did not receive a response. Between February 16 and 27, 2006, the Department issued two letters to Navico that it had not received a section A response and requested that Navico either submit a response or a

letter stating that it was not going to participate. On March 6, 2006, Navico notified the Department via email that it was not going to participate and was withdrawing from the administrative review. Therefore, we find that facts available are warranted for Navico in accordance with section 776(a)(2)(A)(B) and (C).

Because Navico failed to submit a questionnaire response, critical data relevant to separate rates remain. Therefore, the Department was prevented from conducting a thorough separate rates analysis of Navico's information. Accordingly, we find that Navico has not demonstrated that it is entitled to a separate rate and thus, is deemed to be included in the Vietnam–wide entity. Moreover, Navico has failed to cooperate to best of its ability by withdrawing from this administrative review over two months after the Department's established deadline, which was January 6, 2006. Because Navico has both significantly impeded this proceeding and failed to cooperate to the best of its ability, the Department finds that the application of AFA is appropriate, pursuant to sections 776(a)(2)(a) and (b) of the Act.

Phan Quan

Between January and March 2006, the Department issued two questionnaires to Phan Quan on Section A of the Department's NME questionnaire. However, on April 26, 2006, Phan Quan submitted a letter stating that it was not submitting a response to the Department's March 28, 2006, supplemental questionnaire and was withdrawing from this administrative review. Therefore, pursuant to sections 776(a)(2)(A)(B) and (C) of the Act, the Department finds that facts available is appropriate.

Because Phan Quan failed to submit a questionnaire response, critical data potentially relevant to separate rates remain. Therefore, the Department was prevented from conducting a thorough separate rates analysis of Phan Quan's information. Therefore, we find that Phan Quan has not demonstrated that it is entitled to a separate rate and is thus deemed to be included in the Vietnam–wide entity. Moreover, Phan Quan has failed to cooperate to the best of its ability. Accordingly, since Phan Quan both significantly impeded the proceeding and failed to cooperate to the best of its ability, the application of AFA is appropriate, pursuant to sections 776(a)(2)(A) and (b) of the Act.

Vietnam–wide Entity

Because the Vietnam–wide entity (including Cafatex, Mekonimex, Navico, Phan Quan and Afiex) has failed to cooperate to the best of its ability in providing the requested information, we find it appropriate, in accordance with sections 776(a)(2)(A) and (B), as well as section 776(b), of the Act, to assign total AFA to the Vietnam–wide entity. By doing so, we ensure that the companies that are part of the Vietnam–wide entity will not obtain a more favorable result by failing to cooperate than had they cooperated fully in this review.

Section 776(a)(2) of the Act provides that, if an interested party or any other person (A) withholds information that has been requested by the administering authority, or (B) fails to provide such information by the deadlines for the submission of the information or in the form and manner requested, subject to subsections (c)(1) and (e) of section 782 of the Act, the Department shall, subject to section 782(d) of the Act, use the facts otherwise available in reaching the applicable determination under this title. Furthermore, under section 782(c) of the Act, a Respondent has a responsibility not only to notify the Department if it is unable to provide the requested information but also to provide a full explanation as to why it cannot provide the information and suggest alternative forms in which it is able to submit the information. Because these four companies did not establish their entitlement to a separate rate and failed to provide requested information, we find that, in accordance with sections 776(a)(2)(A) and (B) of the Act, it is appropriate to base the Vietnam–wide margin in this review on facts available. *See Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China*, 65 FR 50183, 50184 (August 17, 2000).

Section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of the party as the facts otherwise available. Adverse inferences are appropriate ''to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.'' *See* SAA accompanying the URAA, H. Doc. No. 103–316, at 870 (1994). Section 776(b) of the Act authorizes the Department to use, as AFA, information derived from the petition, the final determination in the LTFV investigation, any previous administrative review, or any other information placed on the record.

Section 776(b)(4) of the Act permits the Department to use as AFA information derived in the LTFV investigation or any prior review. Thus, in selecting an AFA rate, the Department's practice has been to assign Respondents, who fail to cooperate with the Department's requests for information, the highest margin determined for any party in the LTFV investigation or in any administrative review. *See Stainless Steel Plate in Coils from Taiwan; Preliminary Results and Rescission in Part of Antidumping Duty Administrative Review*, 67 FR 5789 (February 7, 2002). As AFA, we are assigning the Vietnam–wide entity (which includes Cafatex, Mekonimex, Navico, Phan Quan and Afiex) the 66.34 percent which is the rate calculated in this review for QVD as this rate now replaces the Vietnam–wide entity rate as the highest rate available.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (''FOP''), valued in a surrogate market–economy country or countries considered to be appropriate by the Department. In accordance with section 773(c)(4) of the Act, in valuing the factors of production, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market–economy countries that are at a level of economic development comparable to that of the NME country and are significant producers of comparable merchandise. The sources of the surrogate values we have used in this investigation are discussed under the ''Normal Value'' Section below.

As discussed in the ''Separate Rates'' section, the Department considers Vietnam to be an NME country. The Department has treated Vietnam as an NME country in all previous antidumping proceedings. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME country shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment. Accordingly, we treated Vietnam as an NME country for purposes of this review and calculated NV, pursuant to section 773(c) of the Act, by valuing the FOPs in a surrogate country.

The Department determined that Bangladesh, Pakistan, India, Indonesia, and Sri Lanka are countries comparable to Vietnam in terms of economic development. *See Memorandum from*

Ron Lorentzen, Director, Office of Policy, to Alex Villanueva, Program Manager, China/NME Group, Office 9: Antidumping Administrative Review of Certain Frozen Fish Fillets (''Frozen Fish'') from the Socialist Republic of Vietnam: Request for a List of Surrogate Countries, (December 16, 2005) (''*Surrogate Country List*''). We select an appropriate surrogate country based on the availability and reliability of data from the countries. *See Department Policy Bulletin No. 04.1: Non–Market Economy Surrogate Country Selection Process*, (March 1, 2004) (''*Policy Bulletin*''). In this case, we have found that Bangladesh is a significant producer of comparable merchandise, is at a similar level of economic development pursuant to 773(c)(4) of the Act, and has publically available and reliable data. *See Memorandum to the File, through James C. Doyle, Office Director, Office 9, Import Administration, and Alex Villanueva, Program Manager, Office 9, from Julia Hancock, Case Analyst, Subject: 2nd Antidumping Duty Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Selection of a Surrogate Country*, (August 1, 2006) (''*Surrogate Country Memo*''). Thus, we have selected Bangladesh as the primary surrogate country for this administrative review. However, in certain instances where Bangladeshi data was not available, we used data from Indian or Indonesian sources.

Fair Value Comparisons

To determine whether sales of the subject merchandise by QVD to the United States were made at prices below NV, we compared the company's export prices (''EP'') or constructed export prices (''CEP'') to NV, as described in the ''Export Price,'' ''Constructed Export Price,'' and ''Normal Value'' sections of this notice, below.

Export Price

For QVD's EP sale, we used EP methodology, pursuant to section 772(a) of the Act, because the first sale to an unaffiliated purchaser was made prior to importation and CEP was not otherwise warranted by the facts on the record. We calculated EP based on the free–on-board (''FOB'') foreign port price to the first unaffiliated purchaser in the United States. For this EP sale, we also deducted foreign inland freight, foreign cold storage, and international ocean freight from the starting price (or gross unit price), in accordance with section 772(c) of the Act.

Constructed Export Price

In accordance with section 772(b) of the Act, we used CEP methodology when the first sale to an unaffiliated purchaser occurred after importation of the merchandise into the United States. We calculated CEP for certain U.S. sales made QVD through its U.S. affiliates to unaffiliated U.S. customers.

For QVD's CEP sales, we made adjustments to the gross unit price for billing adjustments, rebates, foreign inland freight, international freight, foreign cold storage, U.S. marine insurance, U.S. inland freight, U.S. warehousing, U.S. inland insurance, other U.S. transportation expenses, and U.S. customs duties. In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States, including commissions, credit expenses, advertising expenses, indirect selling expenses, inventory carry costs, and U.S. re–packing costs. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Where movement expenses were provided by NME–service providers or paid for in NME currency, we valued these services using either Bangladeshi or Indian surrogate values. *See Memorandum to the File, through Alex Villanueva, Program Manager, Office 9, from Julia Hancock, Case Analyst, Subject: 2nd Administrative Review of Certain Frozen Fish Fillets from the Socialist Republic of Vietnam (''Vietnam''): Surrogate Values for the Preliminary Results*, (August 31, 2006) (''*Surrogate Value Memo*''). Where applicable, we used the actual reported expense for those movement expenses provided by market economy (''ME'') suppliers and paid for in a ME currency.

Zero–Priced Transactions

During the course of this review, QVD reported a number of zero–priced transactions to their U.S. customers. *See QVD's Supplemental Section C Response*, at 8 and Exhibit S–9. An analysis of QVD's section C database reveals that QVD made a number of zero–priced transactions with customers that had purchased the same merchandise in commercial quantities. *See QVD's Analysis Memo* at Attachment I. In the *2nd Review of Tables and Chairs*, the Department included zero–priced transactions in the margin calculation stating that the record demonstrated that: (1) The respondent provided many pieces of the same product, indicating that these ''samples'' did not primarily serve for evaluation or testing of the merchandise; (2) the respondent provided significant numbers of the same product to its U.S. customer while that customer was purchasing that same product; (3) the respondent provided ''samples'' to the same customers to whom it was selling the same products in commercial quantities; (4) the respondent acknowledged that it gave these products at zero price to its U.S. customers (already purchasing the same items) to sell to their own customers. *See Notice of Final Results of Antidumping Duty Administrative Review: Folding Metal Tables and Chairs from the People's Republic of China*, 71 FR 2905 (January 18, 2006) and accompanying Issues and Decisions Memorandum at Comment 4 (''*2nd Review of Tables and Chairs*'').

The Federal Circuit has not required the Department to exclude zero–priced or de minimis priced sales from its analysis, but rather, has defined a sale as requiring ''both a transfer of ownership to an unrelated party and consideration.'' *See NSK Ltd. v. United States*, 115 F.3d 965, 975 (Fed. Cir. 1997). The CIT in *NSK Ltd. v. United States* stated that it saw ''little reason in supplying and re–supplying and yet re–supplying the same product to the same customer in order to solicit sales if the supplies are made in reasonably short periods of time,'' and that ''it would be even less logical to supply a sample to a client that has made a recent bulk purchase of the very item being sampled by the client.'' *See NSK Ltd v. United States*, 217 F. Supp. 2d 1291, 1311–1312 (CIT 2002). Furthermore, the Courts have consistently ruled that the burden rests with a respondent to demonstrate that it received no consideration in return for its provision of purported samples. *See Zenith Electronics Corp. v. United States*, 988 F. 2d 1573, 1583 (Fed. Cir. 1993) (explaining that the burden of evidentiary production belongs ''to the party in possession of the necessary information''). *See Tianjin Machinery Import & Export Corp. v. United States*, 806 F. Supp. 1008, 1015 (CIT 1992) (''The burden of creating an adequate record lies with respondents and not with {the Department}.'') (citation omitted). Moreover, ''{e}ven where the Department does not ask a respondent for specific information that would enable it to make an exclusion determination in the respondent's favor, the respondent has the burden of proof to present the information in the first place with its request for exclusion.'' *See Notice of Final Results of Antidumping Duty Administrative Reviews: Ball Bearings and Parts Thereof from France, Germany, Italy,*

Japan, Singapore, and the United Kingdom, 70 FR 54711 (September 16, 2005), and accompanying Issues and Decisions Memorandum at Comment 8 (citing *NTN Bearing Corp. of America. v. United States*, 997 F. 2d 1453, 1458 (Fed. Cir. 1993)).

An analysis of QVD's section C computer sales listings reveals that QVD provided zero–priced merchandise to the same customers to whom it was selling or had sold the same products in commercial quantities, with the exception of a few of QVD's customers, who did not make any purchases of subject merchandise during the POR. *See QVD Preliminary Analysis Memorandum* at Attachment I. Consequently, based on the facts cited above, the guidance of past CIT decisions, and consistent with the Department's prior case precedent, for the preliminary results of this review, we have not excluded zero–priced transactions from the margin calculation of this case for QVD, with the exception of certain sales that QVD made to new customers that did not purchase any subject merchandise during the POR.

Normal Value

Section 773(c)(1) of the Act provides that, in the case of an NME, the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act. Because information on the record does not permit the calculation of NV using home–market prices, third–country prices, or constructed value and no party has argued otherwise, we calculated NV based on FOPs reported by QVD, pursuant to sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

As the basis for NV, QVD provided FOPs used in each of the stages for processing frozen fish fillets. However, QVD also reported that it is an integrated producer, (*i.e.*, it farms and processes the whole fish input), but that its affiliated farming facility, Choi Moi, did not supply the majority of the whole fish used during the production of the subject merchandise. *See QVD's Section D Questionnaire Response*, (March 8, 2006) at 3. In response to a supplemental questionnaire, QVD also provided factors of production information used in each of the production stages, from the fingerling stage to the frozen fish fillet processing stage, separately. Although QVD reported the inputs used to produce the main input to the processing stage (whole fish), for the purposes of these preliminary results, we are not valuing those inputs when calculating NV. Rather, our NV calculation begins with a valuation of the fish input (whole fish) used to produce the merchandise under investigation.

Our general policy, consistent with section 773(c)(1)(B) of the Act, is to value the FOPs that a respondent uses to produce the subject merchandise. If the NME respondent is an integrated producer, we take into account the factors utilized in each stage of the production process. For example, in a previous aquaculture case, *Shrimp from PRC Final*, one of the respondents, Zhanjiang Guolian, was a fully integrated firm, and the Department valued both the farming and processing FOPs because Zhanjiang Guolian bore all the costs related to growing the shrimp. *See Notice of Final Determination at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the People's Republic of China*, 69 FR 70997 (December 8, 2004) and accompanying Issues and Decision Memorandum at Comment 9(e) (''*Shrimp from PRC Final*'').

Unlike Zhanjiang Guolian in *Shrimp from the PRC Final*, QVD is not a fully integrated firm. Although QVD is affiliated with Choi Moi, QVD purchased the whole fish input from Choi Moi. Accordingly, QVD did not bear all the costs related to growing the fish input. Therefore, we will apply a surrogate value to the whole fish input that QVD purchased from Choi Moi, rather than valuing the factors of production incurred by Choi Moi in calculating QVD's NV.

To calculate NV, QVD's reported per–unit factor quantities were valued using publicly available Bangladeshi, Indian, and Indonesian surrogate values. In selecting surrogate values, we considered the quality, specificity, and contemporaneity of the available values. As appropriate, we adjusted the value of material inputs to account for delivery costs. Specifically, we added surrogate freight costs to surrogate values using the reported distances from the Vietnam port to the Vietnam factory, or from the domestic supplier to the factory, where appropriate. This adjustment is in accordance with the decision of the United States Court of Appeals for the Federal Circuit (''CAFC'') in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407–1408 (Fed. Cir. 1997).

For those values not contemporaneous with the POR, we adjusted for inflation using data published in the International Monetary Fund (''IMF'')'s *International Financial Statistics*. We excluded from the surrogate country import data used in our calculations imports from South Korea, Thailand, Indonesia and India due to generally available export subsidies. *See China Nat'l Mach. Import & Export Corp. v. United States*, CIT 01–1114, 293 F. Supp. 2d 1334 (CIT 2003), *aff'd* 104 Fed. Appx. 183 (Fed. Cir. 2004) and *Certain Cut–to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 12651 (March 15, 2005) and accompanying Issues and Decision Memorandum at Comment 4. Additionally, we disregarded prices from NME countries and imports that were labeled as originating from an ''unspecified'' country were excluded from the average value. The Department excluded these imports because it could not ascertain whether they were not from either an NME country or a country with general export subsidies. Finally, we also disregarded prices from North Korea, as the Department has in a previous case. *See Notice of Final Results of Antidumping Duty Administrative Review: Chrome–Plated Lug Nuts from the People's Republic of China*, 61 FR 58514 (November 15, 1996). We converted the surrogate values to U.S. dollars as appropriate, using the official exchange rate recorded on the dates of sale of subject merchandise in this case, obtained from Import Administration's website at *http://www.ia.ita.doc.gov/exchange/index.html*. For further detail, *see Surrogate Values Memo*.

Preliminary Results of the Review

As a result of our review, we preliminarily find that the following margins exist for the period August 1, 2004, through July 31, 2005:

Manufacturer/Exporter	Weighted–Average Margin (Percent)
Cataco	80.88
QVD	66.34
Vietnam–wide Rate[10]	66.34

[10] The Vietnam-wide rate includes Mekonimex, Cafatex, Afiex, Navico, Phan Quan, ANTESCO, Anhaco, Binh Dinh and Vinh Long.

Public Comment

The Department will disclose to parties to this proceeding the calculations performed in reaching the preliminary results within ten days of the date of announcement of the preliminary results. An interested party may request a hearing within 30 days of publication of the preliminary results. *See* 19 CFR 351.310(c). Interested parties may submit written comments (case briefs) within 20 days of

publication of the preliminary results and rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, within five days after the time limit for filing case briefs. See 19 CFR 351.309(c)(1)(ii) and 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities. Further, the Department requests that parties submitting written comments provide the Department with a diskette containing the public version of those comments. Unless the deadline is extended pursuant to section 751(a)(3)(A) of the Act, the Department will issue the final results of this administrative review, including the results of our analysis of the issues raised by the parties in their comments, within 120 days of publication of the preliminary results. The assessment of antidumping duties on entries of merchandise covered by this review and future deposits of estimated duties shall be based on the final results of this review.

Assessment Rates

Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. For QVD, the only respondent receiving a calculated rate in this review, we will calculate importer–specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total volume of the examined sales for that importer. For Cataco, to ensure proper assessment, the Department has adjusted the total volume of the examined sales for Cataco as outlined in the *Cataco Analysis Memo*. Where the assessment rate is *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

Cash–Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for the exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non–Vietnam exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter–specific rate published for the most recent period; (3) for all Vietnam exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the Vietnam–wide rate of 66.34 percent, which was calculated in this review for QVD; and (4) for all non–Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporters that supplied that non–Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Interested Parties

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

We are issuing and publishing this determination in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–15003 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–475–703)

Notice of Preliminary Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Salim Bhabhrawala or Saliha Loucif, at (202) 482–1784 or (202) 482–1779, respectively; AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on granular polytetrafluoroethylene resin (PTFE) from Italy, covering the period August 1, 2004, through July 31, 2005. We preliminarily determine that sales of subject merchandise by Solvay Solexis, Inc. and Solvay Solexis S.p.A (collectively, Solvay) have been made below normal value (NV). If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on appropriate entries based on the difference between the export price (EP) and the NV. Interested parties are invited to comment on these preliminary results.

SUPPLEMENTARY INFORMATION:

Background

On August 30, 1988, the Department published in the **Federal Register** the antidumping duty order on granular PTFE resin from Italy. *See Antidumping Duty Order; Granular Polytetrafluoroethylene Resin from Italy*, 53 FR 33163 (August 30, 1988). On August 1, 2005, the Department issued a notice of opportunity to request an administrative review of this order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 70 FR 44085 (August 1, 2005). In accordance with 19 CFR 351.213(b), Solvay requested an administrative review. On September 28, 2005, the Department published the notice of initiation of this antidumping duty administrative review, covering the period August 1, 2004, through July 31, 2005 (the period of review, or POR). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005).

On October 11, 2005, the Department issued its antidumping questionnaire to Solvay, specifying that the responses to Section A and Sections B–E would be due on November 1, 2005, and, November 15, 2005, respectively.[1] The

[1] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the manner in which it sells that merchandise in all of its markets. Section B requests a complete listing of all home market sales, or, if the home market is not viable, of sales in the most appropriate third-country market (this Section is not applicable to respondents in non-market economy cases). Section C requests a complete listing of U.S. sales. Section D requests information on the cost of production of

Department received timely responses to Sections A–E of the initial antidumping questionnaire and associated supplemental questionnaires.[2]

On April 14, 2006, the Department published a notice of a 90-day extension of the preliminary results of this administrative review. *See Granular Polytetrafluoroethylene Resin From Italy: Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 19481. This notice extended the deadline for the preliminary results to August 1, 2006. On August 3, 2006, the Department published a notice of a 30-day extension of the preliminary results of this administrative review. *See Granular Polytetrafluoroethylene Resin From Italy: Second Extension of the Time Limit for the Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 44018. This notice extended the deadline for the preliminary results to August 31, 2006.

Scope of the Order

The product covered by this order is granular PTFE resin, filled or unfilled. This order also covers PTFE wet raw polymer exported from Italy to the United States. *See Granular Polytetrafluoroethylene Resin From Italy; Final Affirmative Determination of Circumvention of Antidumping Duty Order*, 58 FR 26100 (April 30, 1993). This order excludes PTFE dispersions in water and fine powders. During the period covered by this review, such merchandise was classified under item number 3904.61.00 of the Harmonized Tariff Schedule of the United States (HTSUS). We are providing this HTSUS number for convenience and CBP purposes only. The written description of the scope remains dispositive.

Fair Value Comparisons

We compared the constructed export price (CEP) to the NV, as described in the *Constructed Export Price* and *Normal Value* sections of this notice. Pursuant to section 777A(d)(2) of the Tariff Act of 1930, as amended (the Act), we compared the CEPs of individual transactions to contemporaneous monthly weighted–average prices of sales of the foreign like product.

We first attempted to compare contemporaneous sales of products sold in the United States and the comparison market that were identical with respect to the following characteristics: type, filler, percentage of filler, and grade. Where we were unable to compare sales of identical merchandise, we compared U.S. sales with comparison market sales of the most similar merchandise.

Constructed Export Price

For all sales to the United States, we calculated CEP, as defined in section 772(b) of the Act, because all sales to unaffiliated parties were made after importation of the subject merchandise into the United States through the respondent's affiliate, Solvay Solexis, Inc. We based CEP on the packed, delivered prices to unaffiliated purchasers in the United States, net of billing adjustments. We adjusted these prices for movement expenses, including international freight, marine insurance, brokerage and handling in the United States, U.S. inland freight, U.S. warehousing, and U.S. customs duties, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we deducted selling expenses incurred by the affiliated reseller in connection with economic activity in the United States. These expenses include credit, inventory carrying costs, and indirect selling expenses incurred by Solvay Solexis, Inc. We adjusted inventory carrying cost for the sales of further manufactured products to accurately reflect the time they spent in inventory. *See* Memorandum from Saliha Loucif and Salim Bhabhrawala, International Trade Compliance Analysts, to Constance Handley, Program Manager, re: Preliminary Results Calculation Memorandum, dated August 31, 2006 (Analysis Memo).

With respect to sales involving imported wet raw polymer that was further manufactured into finished PTFE resin in the United States, we deducted the cost of such further manufacturing in accordance with section 772(d)(2) of the Act. We adjusted the variable overhead for further–manufactured products to reflect a positive amount. In addition, we applied Solvay's reported interest expense ratio to its further manufacturing cost. *See* Analysis Memo.

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales of granular PTFE resin in the home market to serve as a viable basis for calculating NV, we compared Solvay's volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Because the aggregate volume of home market sales of the foreign like product was greater than five percent of the respective aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provided a viable basis for calculating NV. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the prices at which the foreign like product was first sold for consumption in the exporting country, in the usual commercial quantities and in the ordinary course of trade.

B. Cost of Production Analysis

Because we disregarded below–cost sales in the calculation of the final results of the 2000–2001 administrative review (13th review), with respect to Solvay, we had reasonable grounds to believe or suspect that home market sales of the foreign like product by Solvay had been made at prices below the cost of production (COP) during the period of this review. *See* section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we initiated a COP investigation regarding home market sales. Solvay calculated its model–specific costs of production on a POR basis.

1. *Calculation of COP*

In accordance with section 773(b)(3) of the Act, we calculated the model–specific, weighted–average COP, by model, based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses, interest expenses, selling expenses, and packing costs.

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the foreign like product and the constructed value of the merchandise under review. Section E requests information on further manufacturing.

[2] During the POR, Solvay sold merchandise further processed in the United States, which was made prior to the POR. In its Section A response, dated November 1, 2005, Solvay stated that its PTFE further manufacturing operations have been discontinued. In addition, Solvay reported it could not fill out Section E because its factory had been damaged by hurricane Rita. Solvay stated that it would provide the information as ''soon as possible'' but no Section E was filed. In Solvay's first supplemental questionnaire, dated March 29, 2006, the Department again asked for Section E. Solvay responded on April 26, 2006, and stated that some of its documents were damaged in the hurricane and it could not fill out Section E ''at this time.'' In the Department's second supplemental questionnaire, the Department told Solvay it had to either fill out Section E, or pursuant to the regulations, offer a full explanation and suggest alternate forms for presenting the data to the Department. Solvay replied again on July 14, 2006, that it could not fill out Section E because of the hurricane damage and submitted documents demonstrating structural damages to its facilities. In response to the Department's fifth supplemental, dated August 8, 2006, Solvay submitted a Section E response, however, there are certain deficiencies in the Section E response. We plan to issue supplemental questionnaires after the preliminary results of this review. Our use of the Section E for the final results of this review will be contingent on complete answers by Solvay to our supplemental questions.

2. *Test of Home Market Sales Prices*

We compared the adjusted weighted–average COP to the home market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP within an extended period of time (i.e., a period of one year) in substantial quantities and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time.

On a model–specific basis, we compared the COP to home market prices, less any rebates, discounts, applicable movement charges, and direct and indirect selling expenses (which were also deducted from COP).

3. *Adjustments to Respondent's Data*

We relied on the COP data submitted Solvay in its cost questionnaire response except for general and administrative (G&A) expenses. We adjusted Solvay's G&A based on its normal books and records, in accordance with Italian GAAP. *See* Analysis Memo.

4. *Results of the COP Test*

We disregarded below–cost sales where (1) 20 percent or more of Solvay's sales of a given product during the POR were made at prices below the COP, because such sales were made within an extended period of time in substantial quantities in accordance with sections 773(b)(2)(B) and (C) of the Act; and (2) based on comparisons of price to weighted–average COPs for the POR, we determined that the below–cost sales of the product were at prices which would not permit recovery of all costs within a reasonable time period, in accordance with section 773(b)(2)(D) of the Act. We found that Solvay made sales below cost, and we disregarded such sales where appropriate.

C. Calculation of Normal Value Based on Comparison–Market Prices

We determined home market prices net of price adjustments (*i.e.*, early payment discounts and rebates). Where applicable, we made adjustments for packing and movement expenses, in accordance with sections 773(a)(6)(A) and (B) of the Act. In order to adjust for differences in packing between the two markets, we deducted home market packing costs from NV and added U.S. packing costs. We also made adjustments for differences in costs attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act, and for other differences in the circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act (*i.e.*, differences in credit expenses). Finally, we made a CEP–offset adjustment to the NV for indirect selling expenses pursuant to section 773(a)(7)(B) of the Act as discussed in the *Level of Trade/CEP Offset* section below.

D. Level of Trade/CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales at the same level of trade in the comparison market as the level of trade of the U.S. sales. The NV level of trade is that of the starting–price sales in the comparison market. For CEP sales, such as those made by Solvay in this review, the U.S. level of trade is the level of the constructed sale from the exporter to the importer.

To determine whether NV sales are at a different level of trade than that of the U.S. sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison–market sales are at a different level of trade and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison–market sales at the level of trade of the export transaction, we make a level–of-trade adjustment under section 773(a)(7)(A) of the Act. Finally, if the NV level is more remote from the factory than the CEP level and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the CEP–offset provision). *See*, *e.g.*, *Industrial Nitrocellulose From the United Kingdom; Notice of Final Results of Antidumping Duty Administrative Review*, 65 FR 6148, 6151 (February 8, 2000) (*Industrial Nitrocellulose*).

For purpose of this review, we obtained information from Solvay about the marketing involved in the reported U.S. sales and in the home market sales, including a description of the selling activities performed by Solvay for each channel of distribution. In identifying levels of trade for CEP and for home market sales, we considered the selling functions reflected in the CEP, after the deduction of expenses and profit under section 772(d) of the Act, and those reflected in the home market starting price before making any adjustments. We expect that, if claimed levels of trade are the same, the functions and activities of the seller should be similar. Conversely, if a party claims that levels of trade are different for different groups of sales, the functions and activities of the seller should be dissimilar.

The record evidence in this review indicates that the home market and the CEP levels of trade for Solvay, formerly known as Solvay Inc. and Solvay SpA (Solvay) have not changed from the 2000–2001 review, the most recently completed review in this case. As explained below, we determined in this review that, as in the prior review,[3] there was one home market level of trade and one U.S. level of trade (*i.e.*, the CEP level of trade).

In the home market, Solvay sold directly to fabricators. These sales primarily entailed selling activities such as technical assistance, engineering services, research and development, technical programs, and delivery services. Given this fact pattern, we found that all home market sales were made at a single level of trade. In determining the level of trade for the U.S. sales, we only considered the selling activities reflected in the price after making the appropriate adjustments under section 772(d) of the Act. *See*, *e.g.*, *Industrial Nitrocellulose*, 65 FR at 6150. The CEP level of trade involves minimal selling functions such as invoicing and the occasional exchange of personnel between Solvay and its U.S. affiliate. Given this fact pattern, we found that all U.S. sales were made at a single level of trade.

Based on a comparison of the home market level of trade and this CEP level of trade, we find the home market sales to be at a different level of trade from, and more remote from the factory than, the CEP sales. Section 773(a)(7)(A) of the Act directs us to make an adjustment for difference in levels of trade where such differences affect price comparability. However, we were unable to quantify such price differences from information on the record. Because we have determined that the home–market level of trade is more remote from the factory than the CEP level of trade, and because the data necessary to calculate a level–of-trade adjustment are unavailable, we made a CEP–offset adjustment to NV pursuant to section 773(a)(7)(B) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act, based on exchange rates in effect on the date of the U.S. sale, as certified by the Federal Reserve Bank.

[3] *See Notice of Final Results of Antidumping Duty Administrative Review: Granular Polytetrafluoroethylene Resin from Italy*, 68 FR 2007 (January 15, 2003) and *Notice of Final Results of Antidumping Duty Administrative Review; Granular Polytetrafluoroethylene Resin From Italy*, 67 FR 1960 (January 15, 2002).

Preliminary Results of Review

As a result of this review, we preliminarily determine that the following weighted–average margin exists for the period August 1, 2004, through July 31, 2005:

Producer	Weighted–Average Margin (Percentage)
Solvay Solexis, Inc. and Solvay Solexis S.p.A (collectively, Solvay)	39.48

In accordance with 19 CFR 351.224(b), the Department will disclose its weighted average antidumping margin calculations within 10 days of public announcement of these preliminary results. An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first working day thereafter. Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results. *See* 19 CFR 351.309(c). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication. *See* 19 CFR 351.309(d). Parties who submit arguments are requested to submit with the argument (1) a statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities. Further, the parties submitting written comments should provide the Department with an additional copy of the public version of any such comments on diskette.

The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results.

Assessment

Upon completion of this administrative review, pursuant to 19 CFR 351.212(b), the Department will calculate an assessment rate on all appropriate entries. We will calculate importer–specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the examined sales to the total quantity of the sales for that importer. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification will apply to entries of subject merchandise during the POR produced by the company included in these preliminary results for which the reviewed company did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company or companies involved in the transaction.

Cash Deposit Requirements

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of PTFE from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate listed above for Solvay will be the rate established in the final results of this review, except if a rate is less than 0.5 percent, and therefore *de minimis*, the cash deposit rate will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 46.46 percent, the ''all others'' rate established in the LTFV investigation. *See* 53 FR 26096 (July 11, 1988). These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entities during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–14909 Filed 9–11–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–803

Administrative Review (02/01/2005 01/31/2006) of Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, from the People's Republic of China: Notice of Rescission of Antidumping Duty Administrative Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Flessner or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482 6312 or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2006, the Department of Commerce (the Department) published in the **Federal Register** (71 FR 5239) a notice of ''Opportunity to Request an Administrative Review'' of the antidumping duty order on heavy forged hand tools, finished or unfinished, with or without handles (heavy forged hand tools), from the People's Republic of China (PRC) for the period of review (POR) covering February 1, 2005, through January 31, 2006.

On February 24, 2006, respondents Shandong Machinery Import and Export Corporation and Tianjin Machinery Import and Export Corporation requested administrative reviews of their companies for this POR. On February 27, 2006, respondents Shanghai Machinery Import & Export Corp., Shandong Huarong Machinery Co., and Shandong Jinma Industrial Group Co., Ltd. requested administrative reviews of their companies for this POR. On February 28, 2006, petitioner Council Tool Company requested administrative reviews of Shandong Huarong

Machinery Co., Ltd., Shandong Machinery Import and Export Corporation, Tianjin Machinery Import and Export Corporation, Shanghai Xinke Trading Company, Iron Bull Industrial Co., Ltd., and Jafsam Metal Products for this POR. Also on February 28, 2006, petitioner Ames True Temper requested administrative reviews of Shandong Huarong Machinery Co., Ltd., Shandong Machinery Import and Export Corporation, Tianjin Machinery Import and Export Corporation, Iron Bull Industrial Co., Ltd., and Truper Herramientas S.A. de C.V. for this POR.

On April 5, 2006, the Department initiated an administrative review of the antidumping duty orders listed below on heavy forged hand tools from the PRC covering the POR February 1, 2005, through January 31, 2006, with respect to the listed companies:

Axes/Adzes

A–570–803

Iron Bull Industrial Co., Ltd.
Jafsam Metal Products
Shanghai Machinery Import & Export Corp.
Shanghai Xinke Trading Company
Shandong Huarong Machinery Co., Ltd.
Shandong Jinma Industrial Group Co., Ltd.
Shandong Machinery Import and Export Corporation
Tianjin Machinery Import and Export Corporation
Truper Herramientas S.A. de C.V.

Bars/Wedges

A–570–803

Iron Bull Industrial Co., Ltd.
Jafsam Metal Products.
Shanghai Machinery Import & Export Corp.
Shanghai Xinke Trading Company
Shandong Huarong Machinery Co., Ltd.
Shandong Jinma Industrial Group Co., Ltd.
Shandong Machinery Import and Export Corporation
Tianjin Machinery Import and Export Corporation
Truper Herramientas S.A. de C.V.

Hammers/Sledges

A–570–803

Iron Bull Industrial Co., Ltd.
Jafsam Metal Products
Shanghai Machinery Import & Export Corp.
Shanghai Xinke Trading Company
Shandong Huarong Machinery Co., Ltd.
Shandong Jinma Industrial Group Co., Ltd.
Shandong Machinery Import and Export Corporation
Tianjin Machinery Import and Export Corporation

Picks/Mattocks

A–570–803

Iron Bull Industrial Co., Ltd.
Jafsam Metal Products
Shanghai Machinery Import & Export Corp.
Shanghai Xinke Trading Company
Shandong Huarong Machinery Co., Ltd.
Shandong Jinma Industrial Group Co., Ltd.
Shandong Machinery Import and Export Corporation

See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Deferral of Administrative Reviews, 71 FR 17077 (April 5, 2006).

Rescission of Reviews

Section 351.213(d)(1) of the Department's regulations stipulates that the Secretary will rescind an administrative review if the party that requests a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. In each of the instances cited in the paragraphs below, the parties who requested the administrative reviews have withdrawn their requests for review within the 90-day period. Therefore, we rescind the following reviews with regard to the firms and merchandise specified in the following paragraphs.

On April 18, 2006, respondent Shandong Jinma Industrial Group Co., Ltd. withdrew its request for an administrative review of its sales during the above–referenced POR. Respondent was the sole party to request this review. Therefore, the Department is rescinding the review of the antidumping duty order on heavy forged hand tools in all classes or kinds with regard to Shandong Jinma Industrial Group Co., Ltd.

On April 24, 2006, respondent Shanghai Machinery Import & Export Corp. withdrew its request for an administrative review of its sales during the above–referenced POR. Respondent was the sole party to request this review. Therefore, the Department is rescinding the review of the antidumping duty order on heavy forged hand tools in all classes or kinds with regard to Shanghai Machinery Import & Export Corp.

On April 26, 2006, petitioner Ames True Temper withdrew its request for an administrative review of the sales of Truper Herramientas S.A. de C.V. during the above–referenced POR. Petitioner was the sole party to request this review. Therefore, the Department is rescinding the review of the antidumping duty order on heavy forged hand tools in all classes or kinds with regard to Truper Herramientas S.A. de C.V.

On April 18, 2006, respondent Tianjin Machinery Import and Export Corporation withdrew its request for an administrative review of its sales during the above–referenced POR. On June 13, 2006, petitioner Ames True Temper withdrew its request for an administrative review of the sales of Tianjin Machinery Import and Export Corporation with respect to the classes or kinds axes/adzes, hammers/sledges, and bars/wedges. On June 29, 2006, petitioner Council Tool Company withdrew its request for an administrative review of the sales of Tianjin Machinery Import and Export Corporation with respect to the classes or kinds axes/adzes, hammers/sledges, and bars/wedges. Therefore, the Department is rescinding the review of the antidumping duty order on heavy forged hand tools in the classes or kinds axes/adzes, hammers/sledges, and bars/wedges with regard to Tianjin Machinery Import and Export Corporation.

On April 19, 2006, respondent Shandong Huarong Machinery Co. withdrew its request for an administrative review of its sales during the above–referenced POR. On June 13, 2006, petitioner Ames True Temper withdrew its request for an administrative review of the sales of Shandong Huarong Machinery Co. with respect to the classes or kinds axes/adzes and bars/wedges. On June 29, 2006, petitioner Council Tool Company withdrew its request for an administrative review of the sales of Shandong Huarong Machinery Co. with respect to the classes or kinds axes/adzes and bars/wedges. Therefore, the Department is rescinding the review of the antidumping duty order on heavy forged hand tools in the classes or kinds axes/adzes and bars/wedges with regard to Shandong Huarong Machinery Co.

On June 13, 2006, petitioner Ames True Temper withdrew its request for an administrative review of the sales of Iron Bull Industrial Co., Ltd. with respect to the class or kind bars/wedges. On June 29, 2006, petitioner Council Tool Company withdrew its request for an administrative review of the sales of Iron Bull Industrial Co., Ltd. with respect to the class or kind bars/wedges. On July 6, 2006, Iron Bull Industrial Co., Ltd. requested administrative review of its company for this POR. On July 17, 2006, the Department denied Iron Bull Industrial Co., Ltd.'s request as untimely

in accordance with section 351.213(b) of the Department's regulations since the request was made more than four months after the end of the anniversary month. Therefore, the Department is rescinding the review of Iron Bull Industrial Co., Ltd. with respect to the class or kind bars/wedges.

This notice is published in accordance with sections 751(a)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: August 31, 2006.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E6–14917 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–427–818)

Low Enriched Uranium from France: Notice of Court Decision and Suspension of Liquidation

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On August 3, 2006, the United States Court of International Trade (''CIT'') sustained the Department of Commerce's (''the Department's'') June 19, 2006, Final Results of Redetermination on Remand pursuant to *Eurodif S.A., et. al. v. United States*, Consol. Ct. No. 02–00219, Slip. Op. 06–75 (CIT May 18, 2006) (''LEU Remand Redetermination''), which pertains to the Antidumping Duty Order on Low Enriched Uranium (''LEU'') from France.

Consistent with the decision of the U.S. Court of Appeals for the Federal Circuit (''CAFC'') in *Timken Co. v. United States*, 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), the Department is notifying the public that this decision is ''not in harmony'' with the Department's original determination and will continue to order the suspension of liquidation of the subject merchandise, where appropriate, until there is a conclusive decision in this case. If the case is not appealed, or if it is affirmed on appeal, the Department will instruct U.S. Customs and Border Protection to liquidate all relevant entries from Eurodif S.A./Compagnie Generale Des Matieres Nucleaires (collectively, ''Eurodif'' or ''respondents'').

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Myrna Lobo, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, DC 20230; telephone: (202) 482–3148 or (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

On December 21, 2001, the Department published a notice of final determination in the antidumping duty investigation of LEU from France. *See Notice of Final Determination of Sales at Less Than Fair Value: Low Enriched Uranium From France*, 66 FR 65877 (Dec. 21, 2001) (''LEU Final Determination''). On February 13, 2002, the Department published in the **Federal Register** an amended final determination and antidumping duty order on LEU from France. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Low Enriched Uranium From France*, 67 FR 6680 (Feb. 13, 2002).

Respondents challenged the Department's final determination before the CIT. The case was later appealed and the CAFC, in *Eurodif S.A., Compagnie Generale Des Matieres Nucleaires, and Cogema Inc., et. al. v. United States*, 411 F.3d 1355 (Fed. Cir. 2005) (''*Eurodif I*''), ruled in favor of respondents. The CAFC later clarified its ruling, issuing a decision in *Eurodif S.A., Compagnie Generale Des Matieres Nucleaires, and Cogema Inc., et. al. v. United States*, 423 F. 3d. 1275 (Fed. Cir. 2005) (''*Eurodif II*'').

On January 5, 2006, the CIT remanded the case to the Department for action consistent with the decisions of the Federal Circuit in *Eurodif I* and *Eurodif II*. See *Eurodif S.A., Compagnie Generale Des Matieres Nucleaires, and Cogema Inc. et. al. v. United States*, Slip. Op. 06–2 (CIT Jan. 5, 2006). Specifically, the CIT directed the Department to revise its final determination and antidumping duty order to conform with the decisions in *Eurodif I* and *Eurodif II*.

On March 3, 2006, the Department issued its results of redetermination and recalculated the antidumping duty rate applicable to Eurodif, to comply with the decisions of *Eurodif I* and *Eurodif II*. On May 18, 2006, the CIT again remanded the case to the Department to exclude certain entries from the scope of the order. On June 19, 2006, the Department issued its final results of redetermination pursuant to court remand (''LEU Remand Redetermination''). On August 3, 2006, the CIT sustained the Department's redetermination. *See Eurodif S.A., Compagnie Generale Des Matieres Nucleaires, and Cogema Inc. et. al. v. United States*, Slip. Op. 06–124 (CIT August 3, 2006).

Suspension of Liquidation

The CAFC in *Timken* held that, pursuant to 19 USC 1516(e), the Department must publish notice of a decision of the CIT or the CAFC, which is not ''in harmony'' with the Department's final determination or results. Publication of this notice fulfills that obligation. The Federal Circuit also held that the Department must suspend liquidation of the subject merchandise until there is a ''conclusive'' decision in the case. Therefore, pursuant to *Timken*, the Department must continue to suspend liquidation pending the expiration of the period to appeal the CIT's August 3, 2006, decision.

In the event that the CIT's ruling is not appealed, or if appealed, it is upheld, the Department will publish amended final results and liquidate relevant entries covering the subject merchandise.

Dated: September 5, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–15000 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–549–821

Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to requests from interested parties, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on polyethylene retail carrier bags (PRCBs) from Thailand. The review covers seven manufacturers/exporters. The period of review is January 26, 2004, through July 31, 2005.

We have preliminarily determined that sales have been made below normal value by each of the companies subject to this review. If these preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

We invite interested parties to comment on these preliminary results. Parties who submit comments in this review are requested to submit with each argument (1) a statement of each issue and (2) a brief summary of the argument.

EFFECTIVE DATE: September 11, 2005

FOR FURTHER INFORMATION CONTACT: Thomas Schauer at (202) 482–0410 or Richard Rimlinger at (202) 482–4477, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 2004, the Department published in the **Federal Register** the antidumping duty order on polyethylene retail carrier bags from Thailand. *See Antidumping Duty Order: Polyethylene Retail Carrier Bags from Thailand*, 69 FR 48204 (August 9, 2004). On September 28, 2005, in accordance with 19 CFR 351.213(b), we published a notice of initiation of administrative review of this order. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 70 FR 56631 (September 28, 2005). Since initiation of the review we extended the due date for the completion of these preliminary results of review from May 3, 2006, to August 31, 2006. See *Notice of Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags from Thailand*, 71 FR 24641 (April 26, 2006), and *Notice of Extension of Deadline for the Preliminary Results of Antidumping Duty Administrative Review: Polyethylene Retail Carrier Bags from Thailand*, 71 FR 42630 (July 27, 2006). The companies for which we have conducted an administrative review of the order on PRCBs from Thailand are as follows: Universal Polybag Co., Ltd., Alpine Plastics, Inc., Advance Polybag Inc., and API Enterprises, Inc. (collectively, UPC/API); Thai Plastic Bags Industries Company Ltd. and APEC Film Ltd. (collectively, TPBG); Apple Film Co., Ltd. (Apple); CP Packaging Industry Co. Ltd. (CP Packaging); King Pac Industrial Co., Ltd. (KPI), Dpac Industrial Co., Ltd. (DPAC), Zippac Co., Ltd. (Zippac), and King Bag Co., Ltd. (King Bag) (collectively, KP); Naraipak Co., Ltd., and Narai Packaging (Thailand) Ltd. (collectively, Naraipak); Sahachit Watana Plastic Ind. Co., Ltd. (Sahachit Watana). Although our initiation notice listed KPI separately, KPI informed us in its response that it was affiliated with DPAC, Zippac, and King Bag and KP submitted a response on behalf of all those firms. Based on information in this consolidated response, we have collapsed these firms into one entity, herein after referred to as KP. See Collapsing Decision Memorandum, dated August 31, 2006. With respect to TPBG, although we initiated an administrative review of Winner's Pack Co., Ltd. (Winner's), this company informed us in its response that it merged with TPBG prior to the period of review. See Winner's/TPBG's November 23, 2005, submission at Exhibit A–11.

Scope of Order

The merchandise subject to this antidumping duty order is polyethylene retail carrier bags (PRCBs) which may be referred to as t–shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non–sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the order excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end–uses other than packaging and carrying merchandise from retail establishments, *e.g.*, garbage bags, lawn bags, trash–can liners.

Imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the *Harmonized Tariff Schedule of the United States* (HTSUS). This subheading also covers products that are outside the scope of the order. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

Verification

As provided in section 782(i) of the Tariff Act of 1930, as amended (the Act), we have verified information provided by certain respondents using standard verification procedures, including on–site inspection of the manufacturers' facilities, the examination of relevant sales and financial records, and the selection of original documentation containing relevant information. Specifically, we conducted sales and cost verifications of CP Packaging and KP. Our verification results are outlined in the public versions of the verification reports, which are on file in the Central Records Unit (CRU), room B–099 of the main Commerce building. See CP Packaging Sales Verification Report (July 17, 2006) (CP Sales Verification Report), CP Packaging Cost Verification Report (July 17, 2006) (CP Cost Verification Report), KP Sales Verification Report (August 31, 2006), and KP Cost Verification Report (August 31, 2006).

Use of Facts Available

Section 776(a)(2) of the Act provides that, if an interested party withholds information that has been requested by the Department, fails to provide such information in a timely manner or in the form or manner requested, significantly impedes a proceeding under the antidumping statute, or provides such information but the information cannot be verified, the Department shall use, subject to sections 782(d) and (e) of the Act, facts otherwise available in reaching the applicable determination. Pursuant to section 782(e) of the Act, the Department shall not decline to consider submitted information if that information is necessary to the determination but does not meet all of the requirements established by the Department provided that all of the following requirements are met: (1) The information is submitted by the established deadline; (2) the information can be verified; (3) the information is not so incomplete that it cannot serve as a reliable basis for reaching the applicable determination; (4) the interested party has demonstrated that it acted to the best of its ability; (5) the information can be used without undue difficulties.

In addition, section 776(b) of the Act provides that, if the Department finds that an interested party ''has failed to cooperate by not acting to the best of its ability to comply with a request for information,'' the Department may use information that is adverse to the interests of that party as facts otherwise available.

With respect to KP, it withheld information, failed to provide information in a timely manner or in the form or manner requested, and significantly impeded the proceeding. As a consequence, we were unable to verify KP's response. See the August 31, 2006, Decision Memorandum to Laurie Parkhill entitled ''Decision to Apply Adverse Facts Available and the Appropriate Rate'' (AFA Memo) for a full discussion on an adverse facts–available treatment with respect to KP. As described in the AFA Memo, based on the difficulties we encountered at verification (see KP Sales and Cost Verification Reports (August 31, 2006)), the use of facts available is necessary. See section 776(a) of the Act. Furthermore, because KP could have provided correct and verifiable data but did not, we determine that KP did not act to the best of its ability. Therefore, the use of an adverse inference is warranted. See section 776(b) of the Act and *Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (*Nippon Steel*).

As total adverse facts available, we have used the highest rate we found in the less–than-fair–value investigation, which was 122.88 percent. See *Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand*, 69 FR 34122–34125 (June 18, 2004) (*Final LTFV*). We applied this rate to Zippac, one of the companies comprising the KP group of companies, as well as to two other non–cooperative companies in the less–than-fair–value investigation. *Id.* See also the AFA Memo for a full discussion on an adverse facts–available treatment with respect to KP.

When a respondent is not cooperative, like KP here, the Department has the discretion to presume that the highest prior margin reflects the current margins. See *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 298 F.3d 1330, 1339 (Fed. Cir. 2002) (citing *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990)). As stated in *Rhone Poulenc*, ''if this were not so, the importer, knowing the rule, would have produced current information showing the margin to be less.'' *Rhone Poulenc*, 899 F.2d at 1190. Further, as stated in *Shanghai Taoen*, ''{t}he purposes of using the highest prior antidumping duty rate are to offer assurance that the exporter will not benefit from refusing to provide information, and to produce an antidumping duty rate that bears some relationship to past practices in the industry in question.'' *Shanghai Taoen Int'l Trading Co. v. United States*, 360 F. Supp. 2d 1339, 1348 (CIT 2005) (citing *D&L Supply Co. v. United States*, 113 F.3d 1220,1223 (Fed. Cir. 1997)).

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information from independent sources that are reasonably at its disposal. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' See Statement of Administrative Action (SAA) at 870. The SAA clarifies that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. See SAA at 870. Information from a prior segment of this proceeding, such as that used here, constitutes secondary information. See, *e.g.*, *Anhydrous Sodium Metasilicate from France: Preliminary Results of Antidumping Duty Administrative Review*, 68 FR 44283 (July 28, 2003).

As stated in *F.Lii de Cecco di Filippo Fara S. Martino, S.p.A. v. United States*, 216 F.3d 1027, 1030 (2000), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. See SAA at 869. The SAA also states that independent sources used to corroborate such evidence may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. See 19 CFR 351.308(d) and SAA at 870.

With respect to the reliability aspect of corroboration, the Department found the rate of 122.88 percent to be reliable in the investigation. See *Final LTFV*, 69 FR at 34123- 34124. There, the Department stated that the rate was calculated from source documents included with the petition, namely, a price quotation for various sizes of PRCBs commonly produced in Thailand, import statistics, and affidavits from company officials, all from a different Thai producer of subject merchandise. See AFA Memo. Because the information is supported by source documents, we preliminarily determine that the information is still reliable.

In making a determination as to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as adverse facts available, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin as ''best information available'' (the predecessor to ''facts available'') since the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin. Similarly, the Department does not apply a margin that has been discredited. *See D&L Supply Co. v. United States*, 113 F. 3d 1220, 1224 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present here, and there is no evidence indicating that the margin used as facts available in this review is not appropriate.

In the investigation, the Department determined that, because the offer used in the calculation of 122.88 percent reflected commercial practices of the particular industry during the period of investigation, the information was relevant to mandatory respondents that failed to participate in the investigation. See *Final LTFV*, 69 FR at 34123–24. No information has been presented in the current review that calls into question the relevance of this information. Accordingly, we preliminarily determine that the adverse facts–available rate we corroborated in the investigation is relevant to KP in this first administrative review of the order.

KP's failure to cooperate to the best of its abilities in this review has left the Department with an ''egregious lack of evidence.'' See *Shanghai Taoen*, 360 F. Supp. 2d at 1348. Further, because this is the first review of KP (and because Zippac failed to participate in the investigation), there are no probative alternatives. *Id.* Accordingly, by using information that was corroborated in the investigation and preliminarily determined to be relevant to KP in this review, we have corroborated the adverse facts–available rate ''to the extent practicable.'' See section 776(c) of the Act; 19 CFR 351.308(d); *NSK Ltd. v. United States*, 347 F. Supp. 2d 1312, 1336 (CIT 2004) (stating, ''pursuant to the 'to the extent practicable' language . . . the corroboration requirement itself is not mandatory when not feasible'').

With respect to CP Packaging, we found at verification that CP Packaging reported incorrect amounts for inland–freight expenses it incurred for all U.S.

sales we examined. See CP Sales Verification Report at 15. Because we were unable to verify this expense, the use of facts available is necessary. See section 776(a)(2)(D) of the Act. In addition, CP Packaging had the documents necessary to report the correct freight expenses for its U.S. sales. See CP Sales Verification Report at Exhibit 6, which includes the bills from the freight and brokerage suppliers which we used to ascertain the actual freight expense for a particular U.S. sale. Because it did not do so, we find that CP Packaging did not act to the best of its ability in reporting this expense and, accordingly, the use of an adverse inference is necessary. See section 776(b) of the Act; *Nippon Steel*, 337 F.3d at 1382–83. As partial adverse facts available, we used the highest per–kilogram inland–freight expense that CP reported for any U.S. sale.

With respect to CP Packaging, we also found at verification that CP Packaging reported incorrect amounts for the direct–materials expenses it incurred for the three subject models we examined. See CP Cost Verification Report at 14–15. Because we were unable to verify this expense, the use of facts available is necessary. See section 776(a)(2)(D) of the Act. In addition, CP Packaging had the documents necessary to report the correct direct–materials costs for its subject models. See, *e.g.*, CP Cost Verification Report at Exhibit 13, which includes the print product–costing reports which CP could have used to report the correct costs. Because it did not do so, we find that CP Packaging did not act to the best of its ability in reporting this expense and, accordingly, the use of an adverse inference is necessary. See section 776(b) of the Act; *Nippon Steel*, 337 F.3d at 1382–83. With the exception of the merchandise extruded at CP Packaging's Bangplee facility, however, the reported direct materials costs for the other two models for the months we examined was understated by approximately the same proportion. See CP Cost Verification Report at 14–15. We consider the merchandise that CP Packaging extruded at the Bangplee facility to be an unusual situation such that it is unrepresentative of other models CP Packaging produced because it was the only model CP Packaging sold during the period of review that it did not wholly produce at its Rayong facility. See CP Cost Verification Report at 3. Because costs for the other models were off by a similar proportion, as partial adverse facts available, we have restated the direct–materials costs for all models, except the model produced at the Bangplee facility, by increasing the materials costs by the same proportion as the two non–Bangplee models we examined at verification. We restated the materials costs for the model CP Packaging extruded at the Bangplee facility using the amounts we verified for this model.

Export Price and Constructed Export Price

For the price to the United States, we used export price (EP) or constructed export price (CEP) as defined in sections 772(a) and (b) of the Act, as appropriate. We calculated EP and CEP based on the packed F.O.B., C.I.F., or delivered price to unaffiliated purchasers in, or for exportation to, the United States. See section 772(c) of the Act. We made deductions, as appropriate, for discounts and rebates. See section 772(d) of the Act. We also made deductions for any movement expenses in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act and the SAA accompanying the Uruguay Round Agreements Act (URAA), H.R. Rep. No. 103–316, at 823–824, reprinted in 1994 U.S.C.C.A.N. 4040, 4163–64, we calculated the CEP by deducting selling expenses associated with economic activities occurring in the United States, which include commissions and direct selling expenses. In accordance with section 772(d)(1) of the Act, we also deducted those indirect selling expenses associated with economic activities occurring in the United States and the profit allocated to expenses deducted under section 772(d)(1) in accordance with sections 772(d)(3) and 772(f) of the Act. In accordance with section 772(f) of the Act, we computed profit based on the total revenues realized on sales in both the U.S. and comparison markets, less all expenses associated with those sales. We then allocated profit to expenses incurred with respect to U.S. economic activity based on the ratio of total U.S. expenses to total expenses for both the U.S. and comparison markets.

Comparison–Market Sales

Based on a comparison of the aggregate quantity of comparison–market and U.S. sales and absent any information that a particular market situation in the exporting country did not permit a proper comparison, with the exception of UPC/API, we determined that the quantity of foreign like product sold by all respondents in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a)(1) of the Act. Aside from UPC/API, each company's quantity of sales in its comparison market was greater than five percent of its sales to the U.S. market. See section 773(a)(1)(c) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based normal value for all respondents except for UPC/API on the prices at which the foreign like product was first sold for consumption in the exporting country in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the EP or CEP sales.

Although UPC/API did not have a viable home market within the meaning of section 773(a)(1)(B)(ii)(II) of the Act, Canada was a viable third–country market for UPC/API under section 773(a)(1)(C) of the Act. Therefore, we based normal value for UPC/API's U.S. sales on the prices at which the foreign like product was first sold for consumption in Canada in the usual commercial quantities and in the ordinary course of trade and, to the extent practicable, at the same level of trade as the CEP sales. See section 773(a)(1)(c) of the Act.

Cost of Production

We disregarded below–cost sales in accordance with section 773(b) of the Act in the antidumping duty investigation with respect to PRCBs sold by TPBG. See *Final LTFV*, 69 FR at 34124. Therefore, we have reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP) as provided by section 773(b)(2)(A)(ii) of the Act. Therefore, pursuant to section 773(b)(1) of the Act, we conducted a COP investigation of sales by TPBG in the comparison market.

The petitioners in this proceeding[1] filed allegations that all of the respondents (other than TPBG) made sales below COP in the comparison market. Based on the information in the responses, we found that we had reasonable grounds to believe or suspect that sales of the foreign like product were made at prices that are less than the cost of production of the product by UPC/API, Apple, CP Packaging, KP, and Naraipak. Therefore, pursuant to section 773(b)(1) of the Act, we conducted COP investigations of sales by these firms in the respective

[1] The petitioners are the Polyethylene Retail Carrier Bag Committee and its individual members, Hilex Poly Co., LLC, and Superbag Corporation.

comparison market. We did not find reasonable grounds to believe or suspect that sales of the foreign like product were made at prices that are less than the COP of the product by Sahachit Watana. Therefore, we did not conduct a COP investigation of sales by this firm. See the February 21, 2006, Decision Memorandum to Laurie Parkhill entitled ''Polyethylene Retail Carrier Bags from Thailand - Request to Initiate Cost Investigation for Sahachit Watana Plastic Industry Co., Ltd.'' for a full discussion of our analysis.

In accordance with section 773(b)(3) of the Act, we calculated the COP based on the sum of the costs of materials and fabrication employed in producing the foreign like product, the selling, general, and administrative (SG&A) expenses, and all costs and expenses incidental to packing the merchandise. In our COP analysis, we used the comparison–market sales and COP information provided by each respondent in its questionnaire responses.

After calculating the COP, in accordance with section 773(b)(1) of the Act we tested whether comparison–market sales of the foreign like product were made at prices below the COP within an extended period of time in substantial quantities and whether such prices permitted the recovery of all costs within a reasonable period of time. See section 773(b)(2) of the Act. We compared model–specific COPs to the reported comparison–market prices less any applicable movement charges, discounts, and rebates.

Pursuant to section 773(b)(2)(C) of the Act, when less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because the below–cost sales were not made in substantial quantities within an extended period of time. When 20 percent or more of a respondent's sales of a given product during the period of review were at prices less than the COP, we disregarded the below–cost sales because they were made in substantial quantities within an extended period of time pursuant to sections 773(b)(2)(B) and (C) of the Act and based on comparisons of prices to weighted–average COPs for the period of review, we determined that these sales were at prices which would not permit recovery of all costs within a reasonable period of time in accordance with section 773(b)(2)(D) of the Act. See the Department's preliminary analysis memoranda for UPC/API, Apple, CP Packaging, KP, Naraipak, and TPBG, dated August 31, 2006. Based on this test, we disregarded below–cost sales with respect to all of these companies.

We made several changes to the costs reported by CP Packaging. As discussed under the *Use of Facts Available* section above, we increased the raw–materials costs by the percentage by which the raw–materials costs for models we examined at verification was understated.

In addition, we found at verification that, for some comparison–market products, CP Packaging made a small number of sales to a single domestic customer for which the customer provided replacement raw materials following production. We made an appropriate adjustment to the cost for those sales by the value of the raw materials. See CP Packaging Preliminary Results Analysis Memorandum, dated August 31, 2006.

Finally, we made an adjustment to CP Packaging's reported costs for recycled resin supplied by an affiliated party pursuant to section 773(f)(2) of the Act. Our calculation of the adjustment to CP Packaging's costs for this affiliated–party input is attached to the CP Packaging Preliminary Results Analysis Memorandum, dated August 31, 2006.

UPC/API reported the cost of raw materials purchased from affiliated resellers at transfer price. In accordance with section 773(f)(2) of the Act, the Department is directed to determine whether inputs obtained from affiliated parties reflect arm's–length values. Because the affiliated reseller provided both the raw materials as well as the administrative services related to acquiring the raw materials, there is an administrative cost associated with the purchase of raw materials and with coordinating their delivery. Therefore, to ensure that we have captured the market value of the inputs plus an amount to cover the additional procurement services provided to UPC/API by its affiliates, we have compared transfer prices to adjusted market prices (*i.e.*, the market price of the raw materials plus an amount for the affiliates' SG&A expenses). Where the adjusted market prices were higher than the reported transfer prices, we increased the reported total cost of manufacturing to reflect the adjusted market prices. See the UPC/API Preliminary Results Analysis Memorandum, dated August 31, 2006, for additional information.

Further, UPC/API reported cost data on both a quarterly and period–of-review basis, requesting that the Department use quarterly data due to the significant fluctuation in the cost of resin. It is the Department's normal practice to use annual–average costs to address fluctuations in the production cost over the entire period of review in non–high-inflation cases. See *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results, Recession of Antidumping Duty Administrative Review in Part*, and Determination to Revoke in Part, 70 FR 67665 (November 8, 2005), and accompanying Issues and Decision Memorandum at Comment 1. While our normal practice for a respondent in a country that is not experiencing high inflation is to calculate a single weighted–average cost for the entire period of review, we have used short cost- averaging periods in unusual cases where a company experienced a drastic and consistent change in cost and prices. *Id.* Therefore, we conducted an analysis of UPC/API's reported cost data to determine whether the fluctuation in the cost of resin had an impact on the cost of manufacturing. We found that there was an insignificant difference in the cost of manufacturing when comparing quarterly cost data to cost data for the period of review. For this reason, we have not departed from our normal practice and, accordingly, used UPC/API's reported period–of-review cost data for these preliminary results. See UPC/API Preliminary Results Analysis Memorandum for a more comprehensive description of our analysis.

Finally, UPC/API reported and subtracted from the total cost of manufacturing what it describes as shut–down/start–up costs. Section 773(f)(1)(C)(ii) of the Act allows for an adjustment for start–up operations only where a producer is using new production facilities or producing a new product that requires substantial additional investment and production levels are limited by technical factors associated with the initial phase of commercial production. After evaluating the information provided in UPC/API's questionnaire responses, we found that the expenses identified by UPC/API did not result from start–up operations as described under section 773(f)(1)(C)(ii) of the Act. See UPC/API Preliminary Results Analysis Memorandum for more details. Therefore, we did not allow an adjustment to the cost of manufacturing for the reason of start–up operations.

We determined further that the expenses do not meet the Department's definition of extraordinary expenses (*i.e.*, infrequent in occurrence and unusual in nature). It is the Department's practice to exclude items that are infrequent and unusual from the calculation of reported costs. See *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results, Rescission*

of Antidumping Duty Administrative Review in Part, and Determination Not To Revoke in Part, 69 FR 64731 (November 8, 2004), and accompanying Issues and Decision Memorandum at Comment 13. Because the generally accepted accounting principles (GAAP) of many countries have varying tests of classifying extraordinary items, we test these classifications to ensure that they are the result of events that are unusual and infrequent. See, *e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909 (February 23, 1998); see also *Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Sheet and Strip in Coils From Japan*,64 FR 30574, 30590–91 (June 8, 1999) (stating that the Department's policy is to exclude ''extraordinary'' expenses provided they are both unusual and infrequent). Based on the information on the record of this review, we do not find that temporary shut–downs in the manufacturing industry are unusual in nature and infrequent in occurrence. See *Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon From Chile*, 63 FR 31411, 31436 (June 9, 1998), where the Department concluded that costs associated with the temporary shut–down of a facility should be included in the COP. Accordingly, for these preliminary results, we have added back to the total cost of manufacturing the expenses that UPC/API identified and reported as shut–down/start–up expenses.

We made no other adjustments to the cost information the respondents reported.

Model–Match Methodology

We compared U.S. sales with sales of the foreign like product in the comparison market. Specifically, in making our comparisons, we used the following methodology. If an identical comparison–market model was reported, we made comparisons to weighted–average comparison–market prices that were based on all sales which passed the COP test of the identical product during the relevant or contemporary month. We calculated the weighted–average comparison–market prices on a level of trade–specific basis. If there were no contemporaneous sales of an identical model, we identified the most similar comparison–market model. To determine the most similar model, we matched the foreign like product based on the physical characteristics reported by the respondents in the following order of importance: (1) Quality, (2) bag type, (3) length, (4) width, (5) gusset, (6) thickness, (7) percentage of high–density polyethylene resin, (8) percentage of low–density polyethylene resin, (9) percentage of low linear–density polyethylene resin, (10) percentage of color concentrate, (11) percentage of ink coverage, (12) number of ink colors, (13) number of sides printed.

Normal Value

Comparison–market prices were based on the packed, ex–factory, or delivered prices to affiliated or unaffiliated purchasers. When applicable, we made adjustments for differences in packing and for movement expenses in accordance with sections 773(a)(6)(A) and (B) of the Act. We also made adjustments for differences in cost attributable to differences in physical characteristics of the merchandise pursuant to section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411 and for differences in circumstances of sale in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410. For comparisons to EP, we made circumstance–of-sale adjustments by deducting comparison–market direct selling expenses from and adding U.S. direct selling expenses to normal value. For comparisons to CEP, we made circumstance–of-sale adjustments by deducting comparison–market direct selling expenses from normal value. We also made adjustments, when applicable, for comparison–market indirect selling expenses to offset U.S. commissions in EP and CEP calculations and for U.S. indirect selling expenses to offset comparison–market commissions.

In accordance with section 773(a)(1)(B)(i) of the Act, we based normal value, to the extent practicable, on sales at the same level of trade as the EP or CEP. If normal value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with section 773(a)(7)(A) of the Act. See *Level of Trade* section below.

The Department may calculate normal value based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the exporter or producer, *i.e.*, sales at arm's–length prices. See 19 CFR 351.403(c). We excluded sales to affiliated customers for consumption in the comparison market that we determined not to be at arm's–length prices from our analysis. To test whether these sales were made at arm's–length prices, the Department compared the prices of sales of comparable merchandise to affiliated and unaffiliated customers, net of all rebates, movement charges, direct selling expenses, and packing. Pursuant to 19 CFR 351.403(c) and in accordance with our practice, when the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise comparable to that sold to the affiliated party, we determined that the sales to the affiliated party were at arm's–length prices. See *Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade*, 67 FR 69186 (November 15, 2002). We included in our calculation of normal value those sales to affiliated parties that were made at arm's–length prices.

As discussed in the *Cost of Production* section above, we found at verification that, for some comparison–market products, CP Packaging made a small number of sales to a single domestic customer for which the customer provided replacement raw materials following production. We made an appropriate adjustment to the price for those sales by the value of the raw materials. See CP Packaging Preliminary Results Analysis Memorandum, dated August 31, 2006.

Constructed Value

In accordance with section 773(a)(4) of the Act, we used constructed value as the basis for normal value when we could not determine normal value due to lack of usable sales of the foreign like product in the comparison market. We calculated constructed value in accordance with section 773(e) of the Act. We included the cost of materials and fabrication, SG&A expenses, U.S. packing expenses, and profit in the calculation of constructed value. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the actual amounts incurred and realized by each respondent in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market.

When appropriate, we made adjustments to constructed value in accordance with section 773(a)(8) of the Act, 19 CFR 351.410, and 19 CFR 351.412, for circumstance–of-sale differences and level–of-trade differences. For comparisons to EP, we made circumstance–of-sale adjustments by deducting comparison–market direct selling expenses from and adding U.S. direct selling expenses to constructed value. For comparisons to CEP, we made circumstance–of-sale adjustments by deducting comparison–market direct selling expenses from constructed value.

We also made adjustments, when applicable, for comparison–market indirect selling expenses to offset U.S. commissions in EP and CEP comparisons.

When possible, we calculated constructed value at the same level of trade as the EP or CEP. If constructed value was calculated at a different level of trade, we made an adjustment, if appropriate and if possible, in accordance with sections 773(a)(7) and (8) of the Act.

Level of Trade

To the extent practicable, we determined normal value for sales at the same level of trade as the U.S. sales (either EP or CEP). See sections 773(a)(1)(B)(i) and 773(a)(7) of the Act. When there were no sales at the same level of trade, we compared U.S. sales to comparison–market sales at a different level of trade. The normal–value level of trade is that of the starting–price sales in the comparison market. When normal value is based on constructed value, the level of trade is that of the sales from which we derived SG&A and profit. To determine whether comparison–market sales are at a different level of trade than U.S. sales, we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer.

No company reported any significant differences in selling functions between different channels of distribution or customer type in either the comparison or U.S. markets. Therefore, for each respondent, we determined that all comparison–market sales were made at one level of trade and that all U.S. sales were made at one level of trade. Moreover, for each respondent that had EP sales, we determined that all comparison–market sales were made at the same level of trade as the EP customer.

For each of the two respondents that had CEP sales (UPC/API and Apple), we found that the comparison–market level of trade was not equivalent to the CEP level of trade and that the CEP level of trade was at a less advanced stage than the comparison–market level of trade. Therefore, we were unable to determine a level–of-trade adjustment based on the respondents' comparison–market sales of the foreign like product. Furthermore, we have no other information that provides an appropriate basis for determining a level–of-trade adjustment. For these respondents' CEP sales, we made a CEP–offset adjustment in accordance with section 773(a)(7)(B) of the Act. The CEP–offset adjustment to normal value was subject to the offset cap, calculated as the sum of comparison–market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP (or, if there were no comparison–market commissions, the sum of U.S. indirect selling expenses and U.S. commissions).

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted–average dumping margins exist on polyethylene retail carrier bags from Thailand for the period January 26, 2004, through July 31, 2005:

Company	Margin (percent)
UPC/API	14.17
TPBG	1.41
Apple	16.43
CP Packaging	7.75
KP	122.88
Naraipac	1.69
Sahachit Watana	6.34

Comments

We will disclose the calculations used in our analysis to parties to this review within five days of the date of publication of this notice. Any interested party may request a hearing within 30 days of the date of publication of this notice. See 19 CFR 351.310. Interested parties who wish to request a hearing or to participate if one is requested must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain the following: (1) the party's name, address, and telephone number; (2) the number of participants; (3) a list of issues to be discussed. See 19 CFR 351.310(c).

Issues raised in the hearing will be limited to those raised in the case and rebuttal briefs. See 19 CFR 351.310(c). Case briefs from interested parties may be submitted not later than 30 days after the date of publication of this notice of preliminary results of review. See 19 CFR 351.309(c)(1)(ii). Rebuttal briefs from interested parties, limited to the issues raised in the case briefs, may be submitted not later than five days after the time limit for filing the case briefs or comments. See 19 CFR 351.309(d)(1). See 19 CFR 351.310(c). Any hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs. See 19 CFR 351.310(d). Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument a statement of the issue, a summary of the arguments not exceeding five pages, and a table of statutes, regulations, and cases cited. See 19 CFR 351.309(c)(2).

The Department will issue the final results of this administrative review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice. See section 751(a)(3)(A) of the Act.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated, whenever possible, an exporter/importer (or customer)-specific assessment rate or value for merchandise subject to this review. Pursuant to 19 CFR 351.212.(b)(1), the Department has calculated importer (or customer)-specific *ad valorem* duty–assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those same sales. Where entered value is unavailable the Department has calculated importer (or customer)-specific per–unit assessment amounts by dividing the total dumping margin for each importer or customer by the number of units that importer or customer purchased during the period of review.

With respect to KP, because we are relying on total adverse facts available to establish its dumping margin, we preliminarily determine to instruct CBP to apply 122.88 percent to all entries during the period of review which were produced or exported by any of the KP entities (KPI, DPAC, Zippac, and King Bag).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003 (68 FR 23954). This clarification will apply to entries of subject merchandise during the period of review produced by companies included in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

The Department will issue appropriate assessment instructions directly to CBP within 15 days of

publication of the final results of review.

Cash–Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of polyethylene retail carrier bags from Thailand entered, or withdrawn from warehouse, for consumption on or after the date of publication, as provided by section 751(a)(1) of the Act: (1) The cash–deposit rates for the reviewed companies will be the rates established in the final results of review; (2) for previously investigated companies not listed above, the cash–deposit rate will continue to be the company–specific rate published in the *Notice of Amended Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags from Thailand*, 69 FR 42419 (July 15, 2004); (3) if the exporter is not a firm covered in this review or the less–than-fair–value investigation but the manufacturer is, the cash–deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer has its own rate the cash–deposit rate will be 2.80 percent, the ''all others'' rate for this proceeding. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification to Importer

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–14914 Filed 9–11–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–810, A–583–815)

Continuation of Antidumping Duty Orders on Welded ASTM A–312 Stainless Steel Pipe from Korea and Taiwan

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: As a result of the determinations by the Department of Commerce (the Department) and the International Trade Commission (ITC) that revocation of the antidumping duty orders on Welded ASTM A–312 Stainless Steel Pipe (WSSP) from Korea and Taiwan would likely lead to continuation or recurrence of dumping, the Department is publishing notice of continuation of these antidumping duty orders.

FOR FURTHER INFORMATION CONTACT: Jacqueline Arrowsmith or Dana Mermelstein, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5255 or (202) 482–1391, respectively.

EFFECTIVE DATE: August 28, 2006

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2005, the Department initiated and the ITC instituted sunset reviews of the antidumping duty orders on WSSP from Korea and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). *See Initiation of Five-year (Sunset) Reviews*, 70 FR 52074 (September 1, 2005), and ITC notice of institution on *Certain Welded Stainless Steel Pipe from Korea and Taiwan*, 70 FR 52124 (September 1, 2005). As a result of its review, the Department found that revocation of the antidumping duty orders would likely lead to continuation or recurrence of dumping, and notified the ITC of the magnitude of the margins likely to prevail were the orders to be revoked. *See Welded ASTM A–312 Stainless Steel Pipe from Korea and Taiwan: Notice of Final Results of Expedited (''Sunset'') Reviews of Antidumping Duty Orders*, 71 FR 96 (January 3, 2006).

On August 22, 2006, the ITC determined, pursuant to section 751(c) of the Act, that revocation of the antidumping duty orders on WSSP from Korea and Taiwan would likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Certain Welded Stainless Steel Pipe from Korea and Taiwan*, 71 FR 48941 (August 22, 2006) and USITC Publication 3877 (August 2006) (Inv. Nos. 731–TA–540 and 541) (Second Review)).

Scope of the Orders

The merchandise covered by these antidumping duty orders consists of austenitic stainless steel pipe that meets the standards and specifications set forth by the American Society for Testing and Materials (ASTM) for the welded form of chromium–nickel pipe designated ASTM A–312. Welded Stainless Steel Pipe (WSSP) is produced by forming stainless steel flat–rolled products into a tubular configuration and welding along the seam. WSSP is a commodity product generally used as a conduit to transmit liquids or gases. Major applications for WSSP include, but are not limited to, digester lines, blow lines, pharmaceutical lines, petrochemical stock lines, brewery process and transport lines, general food processing lines, automotive paint lines and paper process machines. Imports of these products are currently classifiable under the following United States Harmonized Tariff Schedule (HTS) subheadings for Korea: 7306.40.5005, 7306.40.5015, 7306.40.5045, 7306.40.5060 and 7306.40.5075. Imports of these products are currently classifiable under the following HTS subheadings for Taiwan:

7306.40.1000, 7306.40.5005, 7306.40.5015, 7306.40.5040, 7306.40.5065, and 7306.40.5085. Although these subheadings include both pipes and tubes, the scope of these orders is limited to welded austenitic stainless steel pipes. Although HTS subheadings are provided for convenience and Customs purposes, the written description of the scope remains dispositive.

Continuation of Antidumping Duty Orders

As a result of the determinations by the Department and the ITC that revocation of these antidumping duty orders would likely lead to continuation or recurrence of dumping and material injury in the United States, pursuant to section 751(d)(2) of the Act, the Department hereby orders the continuation of the antidumping duty orders on WSSP from Korea and Taiwan. U.S. Customs and Border Protection will continue to collect antidumping duty cash deposits at the rates in effect at the time of entry for all

imports of subject merchandise. The effective date of continuation of these orders is August 28, 2006. Pursuant to sections 751(c)(2) and 751(c)(6)(A) of the Act, the Department intends to initiate the next five-year reviews of these orders not later than July 2011.

This notice of continuation and these sunset reviews are in accordance with section 751(c) of the Act and published pursuant to section 777(i)(1) of the Act.

Dated: September 5, 2006.

David A. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–14999 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–580–818)

Preliminary Results of Countervailing Duty Administrative Review: Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the countervailing duty (CVD) order on corrosion–resistant carbon steel flat products (*i.e.*, corrosion–resistant carbon steel plate) from the Republic of Korea (Korea) for the period of review (POR) January 1, 2004, through December 31, 2004. For information on the net subsidy for each of the reviewed companies, see the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the ''Public Comment'' section of this notice).

EFFECTIVE DATE: September 11, 2006.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Gayle Longest, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2209 or (202) 482–3338, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 1993, the Department published in the **Federal Register** the CVD order on corrosion–resistant carbon steel flat products from Korea. *See Countervailing Duty Orders and Amendments to Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Korea*, 58 FR 43752 (August 17, 1993). On August 1, 2005, the Department published a notice of opportunity to request an administrative review of this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 70 FR 44085 (August 1, 2005). On August 31, 2005, we received a timely request for review from Pohang Iron and Steel Co. Ltd. (POSCO) and Dongbu Steel Co., Ltd. (Dongbu). On September 28, 2005, the Department published a notice of initiation of the administrative review of the CVD order on corrosion–resistent carbon steel flat products from Korea covering the POR January 1, 2004, through December 31, 2004. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part*, 70 FR 56631 (September 28, 2005). On October 19, 2005, the Department sent its initial questionnaire to POSCO, Dongbu, and the Government of Korea (GOK). On December 21, 2005, the Department received questionnaire responses from POSCO, Pohang Steel Co., Ltd. (POCOS, a production affiliate of POSCO), POSCO Steel Service & Sales Co., Ltd. (POSTEEL, a trading company for POSCO),[1] Dongbu, and the GOK. On March 20, 2006, we issued supplemental questionnaires to POSCO and the GOK. On April 3, 2006, we received the responses to these supplemental questionnaires.

On April 17, 2006, the Department published in the **Federal Register** a notice of extension of the time period for issuing the preliminary results. *See Corrosion–Resistant Carbon Steel Flat Products from France and the Republic of Korea: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Reviews*, 71 FR 19714 (April 17, 2006). On July 31, 2006, we issued an additional supplemental questionnaire to POSCO, POCOS, and POSTEEL. On August 3, 2006, we issued an additional supplemental questionnaire to the GOK. We received responses to these supplemental questionnaires on August 11, 2006.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The companies subject to this review are POSCO (and its affiliates POCOS and POSTEEL) and Dongbu.

[1] In these preliminary results, unless otherwise stated, we use POSCO to collectively refer to POSCO, POCOS, and POSTEEL.

Affiliated Parties and Trading Companies

In the present administrative review, record evidence indicates that POCOS is a majority–owned affiliate of POSCO. Under 19 CFR 351.525(b)(6)(iii), if the firm that received a subsidy is a holding company, including a parent company with its own operations, the Department will attribute the subsidy to the consolidated sales of the holding company and its subsidiaries. Thus, we attributed subsidies received by POCOS to POSCO and its subsidiaries, net of intra–company sales. Dongbu reported that it is the only member of the Donbu group in Korea that was involved with the sale of subject merchandise to the United States.

Scope of Order

Products covered by this order are certain corrosion–resistant carbon steel flat products from Korea. These products include flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness. The merchandise subject to this order is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7210.30.0000, 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.9030, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.20.1500, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.30.15.0000, 7217.32.5000, 7217.33.5000, 7217.39.1000, 7217.39.5000,

7217.90.1000 and 7217.90.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Average Useful Life

Under 19 CFR 351.524(d)(2), we will presume the allocation period for non–recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned as listed in the Internal Revenue Service's (IRS) 1997 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that the IRS tables do not reasonably reflect the company–specific AUL or the country–wide AUL for the industry under examination and that the difference between the company–specific and/or country–wide AUL and the AUL from the IRS table is significant. According to the IRS Tables, the AUL of the steel industry is 15 years. No interested party challenged the 15-year AUL derived from the IRS tables. Thus, in this review, we have allocated, where applicable, all of the non–recurring subsidies provided to the producers/exporters of subject merchandise over a 15-year AUL.

Subsidies Valuation Information

A. Benchmarks for Short–Term Financing

For those programs requiring the application of a won–denominated, short–term interest rate benchmark, in accordance with 19 CFR 351.505(a)(2)(iv), we used as our benchmark a company–specific weighted–average interest rate for commercial won–denominated loans outstanding during the POR. Where unavailable, we used the average interest rate on lending rate loans for the POR, as reported in the IMF's *International Financial Statistics Yearbook*. This approach is in accordance with the Department's practice. *See*, *e.g.*, the *Final Affirmative Countervailing Duty Determination: Structural Steel Beams From the Republic of Korea*, 65 FR 41051 (July 3, 2000) (*H Beams Investigation*), and the accompanying Issues and Decision Memorandum (*H Beams Decision Memorandum*), at ''Benchmarks for Short–Term Financing.''

B. Benchmark for Long–Term Loans Issued Through 2004

During the POR, POSCO and Dongbu had outstanding long–term won–denominated and foreign–currency denominated loans from government–owned banks and Korean commercial banks. Based on our findings on this issue in prior investigations and administrative reviews, we are using the following benchmarks to calculate the subsidies attributable to respondents' countervailable long–term loans obtained in the years 1991 through 2004:

(1) For countervailable, foreign–currency denominated loans, pursuant to 19 CFR 351.505(a)(2)(ii), and consistent with our past practice to date, our preference is to use the company–specific, weighted–average foreign currency–denominated interest rates on the company's loans from foreign bank branches in Korea, foreign securities, and direct foreign loans received after 1991. *See*, *e.g.*, *Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30636, 30642 (June 8, 1999) (*Sheet and Strip Investigation*); *see also Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 64 FR 15530, 15533 (March 31, 1999) (*Plate in Coils Investigation*). Where no such benchmark instruments are available, and consistent with 19 CFR 351.505(a)(3)(ii) as well as our methodology in a prior administrative review, we relied on the lending rates as reported by the IMF's *International Financial Statistics Yearbook*. *See Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 69 FR 2113 (January 14, 2004) (*2001 Sheet and Strip*), and the accompanying Issues and Decision Memorandum (*2001 Sheet and Strip Decision Memorandum*), at ''Subsidies Valuation Information.''

(2) For countervailable, won–denominated, long–term loans, our practice is to use the company–specific corporate bond rate on the company's public and private bonds, as we determined that the GOK did not control the Korean domestic bond market after 1991 and that domestic bonds may serve as an appropriate benchmark interest rate. *See Plate in Coils Investigation*, 64 FR at 15531; *see also* 19 CFR 351.505(a)(2)(ii). Where unavailable, we used the national average of the yields on three-year corporate bonds, as reported by the Bank of Korea (BOK). We note that the use of the three-year corporate bond rate from the BOK follows the approach taken in the *Plate in Coils Investigation*, in which we determined that, absent company–specific interest rate information, the corporate bond rate is the best indicator of a market rate for won–denominated long–term loans in Korea. *See Plate in Coils Investigation*, 64 FR at 15531. *See also* 19 CFR 505(a)(3)(ii).

In accordance with 19 CFR 351.505(a)(2), our benchmarks take into consideration the structure of the government–provided loans. For fixed–rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), we used benchmark rates issued in the same year that the government loans were issued. For variable–rate loans outstanding during the POR, pursuant to 19 CFR 351.505(a)(5)(i), our preference is to use the interest rates of variable–rate lending instruments issued during the year in which the government loans were issued. Where such benchmark instruments are unavailable, we used interest rates from loans issued during the POR as our benchmark, as such rates better reflect a variable interest rate that would be in effect during the POR. This approach is in accordance with the Department's practice under similar facts. *See*, *e.g.*, *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip From the Republic of Korea*, 68 FR 13267 (March 19, 2003) (*2000 Sheet and Strip*), and accompanying Issues and Decision Memorandum (*Sheet and Strip Decision Memorandum*), at Comment 8; *see also* 19 CFR 351.505(a)(5)(ii).

C. Benchmark Discount Rates

Certain programs examined in this administrative review require the allocation of won–denominated benefits over time. Thus, we have employed the allocation methodology described under 19 CFR 351.524(d). Pursuant to 19 CFR 351.524(d)(3)(i), we based our discount rate upon data for the year in which the government agreed to provide the subsidy. Under 19 CFR 351.524(d)(3)(i)(A), our preference is to use the cost of long–term, fixed–rate loans of the firm in question. Thus, where available, we used company–specific corporate bond rates on public and private bonds. *See Plate in Coils Investigation*, 64 FR at 15531. Where unavailable, pursuant to 19 CFR 351.524(d)(3)(i)(B), we used the national average of the yields on three-year corporate bonds, as reported by the BOK.

I. Program Preliminarily Determined to Confer Subsidies

A The GOK's Direction of Credit

1. Countervailable Loans Received Through 1991

In the 1993 investigation of *Steel Products from Korea*, the Department determined that (1) the GOK influenced the practices of lending institutions in Korea; (2) the GOK regulated long–term loans provided to the steel industry on a selective basis; and (3) the selective provision of these regulated loans resulted in a countervailable benefit. Accordingly, all long–term loans received by the producers/exporters of the subject merchandise were treated as countervailable. The determination in that investigation covered all long–term loans issued through 1991. *See Final Affirmative Countervailing Duty Determinations and Final Negative Critical Circumstances Determinations: Certain Steel Products From Korea*, 58 FR 37338, 37339 (July 9, 1993) (*Steel Products from Korea*). This finding of control was determined to be sufficient to constitute a government program and government action. *See id.*, 58 FR at 37342. In *Steel Products from Korea*, we also determined that (1) the Korean steel sector, as a result of the GOK's credit policies and control over the Korean financial sector, received a disproportionate share of regulated long–term loans, so that the program was, *de facto*, specific, and (2) the interest rates on those loans were inconsistent with commercial considerations. *See id.*, 58 FR at 37343. On this basis, we countervailed all long–term loans received by the steel sector from all lending sources through 1991. *See, e.g., H Beams Decision Memorandum*, at ''The GOK's Credit Policies Through 1991.''

2. Countervailable Loans Received from 1992 Through 2001

In subsequent proceedings, with regard to the period 1992 through 2001, the Department consistently found the GOK continued to exercise control over the lending practices of domestic commercial banks and government–controlled banks, and thereby directed subsidies specific to the steel industry within the meaning of section 771(5A)(D)(iii) of the Tariff Act of 1930, as amended (the Act). Further, we found that such loans constituted a financial contribution within the meaning of section 771(5)(D)(i) of the Act and a benefit under section 771(5)(E)(ii) of the Act, to the extent that the interest rates on the loans were lower than the interest rates on comparable commercial loans. *See Sheet and Strip Investigation*, 64 FR at 30642 (regarding 1992 through 1997); and *Plate in Coils Investigation*, 64 FR at 15533 (regarding 1992 through 1997); *H Beams Decision Memorandum*, at ''The GOK's Credit Policies from 1992 through 1998''; *Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 67 FR 1964 (January 15, 2002) (*1999 Sheet and Strip*), and accompanying Issues and Decision Memorandum (*1999 Sheet and Strip Decision Memorandum*) at ''the GOK's Direction of Credit'' (regarding 1999); *Final Affirmative Countervailing Duty Determination: Certain Cold–Rolled Carbon Steel Flat Products From the Republic of Korea*, 67 FR 62102 (October 3, 2002) (*Cold–Rolled Investigation*), and accompanying Issues and Decision Memorandum (*Cold–Rolled Decision Memorandum*), at ''The GOK Directed Credit'' (regarding 2000); and *2001 Sheet and Strip Decision Memorandum*, at ''The GOK's Direction of Credit'' (regarding 2001).

During the POR, POSCO and Dongbu had outstanding loans that were received prior to the 2002 period. As stated above, the Department has found GOK–directed credit from domestic commercial banks and government–owned banks to be countervailable through 2001. POSCO, Dongbu, and the GOK did not provide any new information that would warrant a change in these prior findings. Therefore, we continue to find that POSCO and Dongbu benefitted from this program, which provides a countervailable subsidy of loans from government–owned or controlled banks through 2001.

3. Countervailable Loans Received from 2002 Through 2004

Section 776(a)(1) and (2) of the Act provides that the Department shall apply ''facts otherwise available'' if, *inter alia*, necessary information is not on the record or an interested party or any other person (A) withholds information that has been requested, (B) fails to provide information within the deadlines established, or in the form and manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act, (C) significantly impedes a proceeding, or (D) provides information that cannot be verified as provided by section 782(i) of the Act.

Where the Department determines that a response to a request for information does not comply with the request, section 782(d) of the Act provides that the Department will so inform the party submitting the response and will, to the extent practicable, provide that party the opportunity to remedy or explain the deficiency. If the party fails to remedy the deficiency within the applicable time limits and subject to section 782(e) of the Act, the Department may disregard all or part of the original and subsequent responses, as appropriate. Section 782(e) of the Act provides that the Department shall not decline to consider information that is submitted by an interested party and is necessary to the determination but does not meet all applicable requirements established by the administering authority if the information is timely, can be verified, is not so incomplete that it cannot be used, and if the interested party acted to the best of its ability in providing the information. Where all of these conditions are met, the statute requires the Department to use the information if it can do so without undue difficulties. However, because the GOK failed to provide the requested information, section 782(d) and (e) of the Act are not applicable.

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.

For the reasons discussed below, we determine that, in accordance with sections 776(a)(2) and 776(b) of the Act, the use of AFA is appropriate for the preliminary results for the determination of direction of credit for loans received from 2002 through 2004.

We asked the GOK for information pertaining to the GOK's direction of credit policies for the period from 2002 through 2004. The GOK did not provide any additional information, stating instead that:

> The Department has consistently found that long–term loans received by the steel industry were the result of GOK direction, despite the GOK's repeated objections and demonstrations to the contrary. While the GOK does not agree with the Department's position, the legal costs to further contest this issue in this review overshadow any possible benefit.

See the December 21, 2005, GOK Questionnaire Response, at 8. Because the GOK withheld the requested information on its lending policies, the Department does not have the necessary information on the record to determine whether the GOK has continued its direction of credit policies from 2002 through 2004. Therefore, the Department must base its determination

on facts otherwise available. *See* Section 776(a)(2)(A) of the Act.

In this case, the GOK refused to supply requested information that was in its possession, and which it had provided in prior proceedings. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 64 FR 73176, 73178 (December 29, 1999) (*CTL Plate Investigation*). Therefore, we find that the GOK did not act to the best of its ability and are employing an adverse inference in selecting from among the facts otherwise available. As AFA, we therefore find that the GOK's direction of credit policies continued from 2002 through 2004. As noted above, the GOK's direction of credit policies provide a financial contribution, confer a benefit, and are specific, pursuant to sections 771(5)(D)(i), 771(5)(E)(ii), and 771(5A)(D)(iii) of the Act, respectively. Therefore, we preliminarily find that lending from domestic banks and government–owned banks during the 2002 and 2004 period are countervailable. Thus, any loans received during 2002 and 2004 from domestic banks and government–owned banks that were outstanding during the POR are countervailable, to the extent that the interest amount paid on the loan is less than what would have been paid on a comparable commercial loan. The Department's decision to rely on adverse inferences when lacking a response from the GOK regarding the direction of credit issue is in accordance with its practice. *See, e.g., Preliminary Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 71 FR 11397, 11399 (March 7, 2006) (*2004 CTL Plate*) (unchanged in final results); *Final Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from Korea*, 71 FR 38861 (July 10, 2006).

Section 776(c) of the Act provides that, when the Department relies on secondary information rather than on information obtained in the course of an investigation or review, it shall, to the extent practicable, corroborate that information from independent sources that are reasonably at its disposal. Secondary information is defined as [i]nformation derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise. *See* Statement of Administrative Action (''SAA'') accompanying the Uruguay Round Agreements Act, H. Doc. No. 316, 103d Cong., 2d Session, Vol. 1, at 870 (1994). Corroborate means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information to be used. The SAA emphasizes, however, that the Department need not prove that the selected facts available are the best alternative information. *Id.*

Thus, in those instances in which it determines to apply AFA, the Department, in order to satisfy itself that such information has probative value, will examine, to the extent practicable, the reliability and relevance of the information used. However, unlike other types of information, such as publicly available data on the national inflation rate of a given country or national average interest rates, there typically are no independent sources for data on the specificity of countervailable subsidy programs. The only source for such information normally is administrative determinations, which are reliable. In the instant case, no evidence has been presented or obtained that contradicts the reliability of the evidence relied upon in previous segments of this proceeding.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render benefit data not relevant. Where circumstances indicate that the information is not appropriate as AFA, the Department will not use it. *See Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812 (February 22, 1996). In the instant case, no evidence has been presented or obtained that contradicts the finding of directed credit relied upon in previous segments of this proceeding. Thus, in the instant case, the Department finds that the information used has been corroborated to the extent practicable.

Dongbu and POSCO reported that, during the POR, they had outstanding fixed–rate and variable–rate loans from government–owned or -controlled lending institutions that were issued between 2002 and 2004.

4. Calculation of the Benefit and Net Subsidy Rate Under the Direction of Credit Program

In accordance with 19 CFR 351.505(c)(2) and (4), we calculated the benefit for each fixed- and variable–rate loan received from GOK–owned or -controlled banks to be the difference between the actual amount of interest paid on the directed loan during the POR and the amount of interest that would have been paid during the POR at the benchmark interest rate. We conducted our benefit calculations using the benchmark interest rates described in the ''Subsidies Valuation Information'' section above. For foreign currency–denominated loans, we converted the benefits into Korean won using exchange rates obtained from the BOK. We then summed the benefits from each company's long–term fixed–rate and variable–rate won–denominated loans.

To calculate the net subsidy rate, we divided the companies' total benefits by their respective total f.o.b. sales values during the POR, as this program is not tied to exports or a particular product. In calculating the net subsidy rate for POSCO, we removed from the denominator sales made between affiliated parties.[2] On this basis, we preliminarily determine the net subsidy rate under the direction of credit program to be less than 0.005 percent *ad valorem* for POSCO and 0.14 percent *ad valorem* for Dongbu.

B. Asset Revaluation Under Article 56(2) of the Tax Reduction and Exemption Control Act (TERCL)

Under Article 56(2) of the TERCL, the GOK permitted companies that made an initial public offering between January 1, 1987, and December 31, 1990, to revalue their assets at a rate higher than the 25 percent required of most other companies under the Asset Revaluation Act. The Department has previously found this program to be countervailable. For example, in the *CTL Plate Investigation*, the Department determined that this program was *de facto* specific under section 771(5A)(D)(iii) of the Act because the actual recipients of the subsidy were limited in number and the basic metal industry was a dominant user of this program. We also determined that a financial contribution was provided in the form of tax revenue foregone pursuant to section 771(5)(D)(ii) of the Act. *See CTL Plate Investigation*, 64 FR at 73182 - 83. The Department further determined that a benefit was conferred within the meaning of section 771(5)(E) of the Act on those companies that were able to revalue their assets under TERCL Article 56(2) because the revaluation resulted in participants paying fewer taxes than they would otherwise pay

[2] For POSCO, we also removed intra-company sales from the denominators of the net subsidy rate calculations of the other programs found countervailable in these preliminary results. This step was not necessary for Dongbu.

absent the program. *Id*. No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program.

The benefit from this program is the difference that the revaluation of depreciable assets has on a company's tax liability each year. Evidence on the record indicates that, in 1989, POSCO made an asset revaluation that increased its depreciation expense. Dongbu reported that it did not use this program during the POR. To calculate the benefit to POSCO, we took the additional depreciation listed in the tax return filed during the POR, which resulted from the company's asset revaluation, and multiplied that amount by the tax rate applicable to that tax return. We then divided the resulting benefit by POSCO's total f.o.b. sales. On this basis, we preliminarily determine the net countervailable subsidy to be 0.02 percent *ad valorem* for POSCO.

C. Research and Development (R&D) Grants Under the Industrial Development Act (IDA)

The GOK, through the Ministry of Commerce, Industry, and Energy (MOCIE), provides R&D grants to support numerous projects pursuant to the IDA, including technology for core materials, components, engineering systems, and resource technology. The IDA is designed to foster the development of efficient technology for industrial development. To participate in this program a company may: (1) Perform its own R&D project, (2) participate through the Korea New Iron and Steel Technology Research Association (KNISTRA), which is an association of steel companies established for the development of new iron and steel technology, and/or (3) participate in another company's R&D project and share R&D costs, along with funds received from the GOK. To be eligible to participate in this program, the applicant must meet the qualifications set forth in the basic plan and must perform R&D as set forth under the Notice of Industrial Basic Technology Development. If the R&D project is not successful, the company must repay the full amount.

In the *H Beams Investigation*, the Department determined that through KNISTRA the Korean steel industry receives funding specific to the steel industry. Therefore, given the nature of KNISTRA, the Department found projects under KNISTRA to be specific. *See Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Structural Steel Beams From the Republic of Korea*, 64 FR 69731, 69740 (December 14, 1999)(unchanged in the final results); and *H Beams Decision Memorandum*, at ''R&D Grants under The Korea New Iron & Steel Technology Research Association (KNISTRA).'' Further, we found that the grants constituted a financial contribution and conferred a benefit in accordance with sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *Id*. No new factual information or evidence of changed circumstances has been provided to the Department with respect to this program. Therefore, we preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act and constitutes a financial contribution and confers a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively.

Dongbu reported that it did not use the program. POSCO reported receiving grants through KNISTRA; however, it claims that the research grants it received under the program are tied to non–subject merchandise. Upon review of the information submitted by the GOK and POSCO, we preliminarily determine that certain grants are tied to non–subject merchandise, and thus, we did not include these grants in our benefit calculations. *See* GOK's December 21, 2005, Questionnaire Response, at Exhibit J–5. However, POSCO also reported receiving certain other grants related to a production process that can be used for an input into the production of subject merchandise. *See* POSCO's December 21, 2005, Questionnaire Response, at Exhibit 6; and Dongbu's December 21, 2005, Questionnaire Response, at Exhibit 6. *See* the Memorandum to the File from Gayle Longest and Robert Copyak, Case Analysts, ''Factual Information Regarding the Steel Production Process,'' August 31, 2006, which is on file in the Central Records Unit, room B–099 the main Commerce Building. Under 19 CFR 351.525(b)(5), if a subsidy is tied to the production or sale of a particular product, the Department will attribute the subsidy only to that product. But, under sub–paragraph (ii), if a subsidy is tied to the production of an input product, then the Department will attribute the subsidy to both the input and downstream products produced by a corporation. Accordingly, we have attributed the grant related to a production process that can be used as an input into the production of subject merchandise to POSCO's total sales.

To determine the benefit from the grants that POSCO received through KNISTRA, we calculated the GOK's contribution for each R&D project. Next, in accordance with 19 CFR 351.524(b)(2), we determined whether to allocate the non–recurring benefit from the grants over POSCO's AUL by dividing the approved amount by POSCO's total sales in the year of approval. Because the approved amounts were less than 0.5 percent of POSCO's total sales in the year of receipt, we expensed the grants to the year of receipt. Next, to calculate the net subsidy rate, we divided the portion of the benefit allocated to the POR by POSCO's total f.o.b. sales during the POR. On this basis, we preliminarily determine POSCO's net subsidy rate under this program to be less than 0.005 percent *ad valorem*.

D. Exemption of VAT on Imports of Anthracite Coal

Under Article 106 of Restriction of Special Taxation Act (RSTA), imports of anthracite coal are exempt from the value added tax (VAT). In the *Cold–Rolled Investigation*, we determined that the program is *de jure* specific to the steel industry under section 771(5A)(D)(i) of the Act, as the items allowed to be imported without paying VAT are limited to the production of steel products. S*ee Cold–Rolled Decision Memorandum*, at ''Exemption of VAT on Imports of Anthracite Coal.'' We also determined that the VAT exemptions under the program constitute a financial contribution under section 771(5)(D)(ii) of the Act, as the GOK is not collecting revenue otherwise due, and that the exemptions confer a benefit under section 771(5)(E) of the Act equal to the amount of the VAT that would have otherwise been paid if not for the exemption. No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program.

Dongbu reported that it did not use the program during the POR. POSCO imported anthracite coal during the POR and, therefore, received a benefit in the amount of the VAT that it would have otherwise paid if not for the exemption. To determine POSCO's benefit from the VAT exemption on these imports, we calculated the amount of VAT that would have been due absent the program on the total value of anthracite coal POSCO imported during the POR. We then divided the amount of this tax benefit by POSCO's respective total f.o.b. sales. Based upon this methodology, we preliminarily

determine that POSCO received a countervailable subsidy of 0.04 percent *ad valorem*.

E. GOK Infrastructure Investment at Kwangyang Bay Through 1991

In *Steel Products from Korea*, the Department investigated the GOK's infrastructure investments at Kwangyang Bay over the period 1983–1991. We determined that the GOK's provision of infrastructure at Kwangyang Bay was countervailable because POSCO was the predominant user of the GOK's investments. Dongbu did not use this program. Consistent with section 771(5A)(D)(iii) of the Act, the Department has consistently held that a countervailable subsidy exists when benefits under a program are provided, or are required to be provided, in law or in fact, to a specific enterprise or industry or group of enterprises or industries. *See*, *e.g.*, *Steel Products from Korea*, 58 FR at 37346; and *CTL Plate Investigation*, 64 FR at 73180. No new factual information or evidence of changed circumstances has been provided to the Department with respect to the GOK's infratructure at Kwangyang Bay over the period 1983–1991. Therefore, we preliminarily determine the infrastructure investments the GOK provided to POSCO are *de facto* specific within the meaning of section 771(5A)(D)(iii)(II) of the Act. Further, we preliminarily determine that the infrastructure investments constitute a financial contribution and confer a benefit within the meaning of sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively.

To determine the benefit from the GOK's investments to POSCO during the POR, we utilized the approach adopted in prior proceedings. *See*, *e.g.*, *CTL Plate Investigation*, 64 FR at 73180. In measuring the benefit from this program, we treated the GOK's costs of constructing the infrastructure at Kwangyang Bay as untied, non–recurring grants in each year in which the costs were incurred. To calculate the benefit conferred during the POR, we applied the Department's standard grant methodology and allocated the GOK's infrastructure investments over a 15-year allocation period. *See* the ''Average Useful Life'' section, above. Using the 15-year allocation period, POSCO is still receiving benefits under this program from the GOK investments made during the years 1990 through 1991. To calculate the benefit from these grants, we used as our discount rate the rate describe above in the ''Subsidies Valuation Information'' section. We then summed the benefits received by POSCO during the POR from each of the GOK's yearly investments over the period 1990–1991. We then divided the total benefit attributable to the POR by POSCO's total f.o.b. sales for the POR. On this basis, we preliminarily determine POSCO's net countervailable subsidy rate to be 0.01 percent *ad valorem* for the POR.

F. Other Subsidies Related to Operations at Asan Bay: Provision of Land and Exemption of Port Fees Under Harbor Act

1. Provision of Land

As explained in the *Cold–Rolled Investigation*, the GOK's overall development plan is published every 10 years and describes the nationwide land development goals and plans for the balanced development of the country. Under these plans, the Ministry of Construction and Transportation (MOCAT) prepares and updates its Asan Bay Area Broad Development Plan. *See Cold–Rolled Investigation Memorandum*, at ''Provision of Land at Asan Bay.'' The Korea Land Development Corporation (Koland) is a government investment corporation that is responsible for purchasing, developing, and selling land in the industrial sites. *Id.*

In the *Cold–Rolled Investigation*, we verified that the GOK, in setting the price per square meter for land at the Kodai industrial estate, removed the 10 percent profit component from the price charged to Dongbu. *Id.* In the *Cold–Rolled Investigation*, we further explained that companies purchasing land at Asan Bay must make payments on the purchase and development of the land before the final settlement. However, in the case of Dongbu, we found that the GOK provided an adjustment to Dongbu's final payment to account for ''interest earned'' by the company for the pre–payments. *Id.* POSCO did not use this program.

In the *Cold–Rolled Investigation*, we determined that the price discount and the adjustment of Dongbu's final payment to account for ''interest earned'' by the company on its pre–payments were countervailable subsidies. Specifically, the Department determined that they were specific under section 771(5A)(D)(iii)(I) of the Act, as they were limited to Dongbu. *Id.* Further, the Department found the price discount and the price adjustment for ''interest earned'' constituted financial contributions and conferred benefits under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively. *Id.*

Consistent with the *Cold–Rolled Investigation*, we have treated the land price discount and the interested earned refund as non–recurring subsidies. Id. In accordance with 19 CFR 351.524(b)(2), because the grant amounts were more than 0.5 percent of the company's total sales in the year of receipt, we applied the Department's standard grant methodology, as described under 19 CFR 351.524(d)(1), and allocated the subsidies over a 15-year allocation period. See the ''Average Useful Life'' section, above. To calculate the benefit from these grants, we used as our discount rate the rates describe above in the ''Subsidies Valuation Information'' section. We then summed the benefits received by Dongbu during the POR. We calculated the net subsidy rate by dividing the total benefit attributable to the POR by Dongbu's total f.o.b. sales for the POR. On this basis, we determine a net countervailable subsidy rate for Dongbu of 0.22 percent *ad valorem* for the POR.

2. Exemption of Port Fees Under Harbor Act

Under the Harbor Act, companies are allowed to construct infrastructure facilities at Korean ports; however, these facilities must be deeded back to the government. Because the ownership of these facilities reverts to the government, the government compensates private parties for the construction of these infrastructure facilities. Because a company must transfer to the government its infrastructure investment, under the Harbor Act, the GOK grants the company free usage of the facility and the right to collect fees from other users of the facility for a limited period of time. Once a company has recovered its cost of constructing the infrastructure, the company must pay the same usage fees as other users of the infrastructure.

In the *Cold–Rolled Investigation*, the Department found that Dongbu received free use of harbor facilities at Asan Bay based upon both its construction of a port facility as well as a road that the company built from its plant to its port. The Department also determined that Dongbu received an exemption of harbor fees for a period of almost 70 years under this program. *See Cold–Rolled Decision Memorandum*, at ''Dongbu's Excessive Exemptions under the Harbor Act.'' In the *Cold–Rolled Investigation*, the Department found the exemption from the fees to be a countervailable subsidy. No new information of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Thus, we preliminarily determine that the program is specific under section 771(5A)(D)(iii)(I) of the Act because the excessive exemption period of 70 years

is limited to Dongbu. Moreover, we preliminarily determine that the GOK is foregoing revenue that it would otherwise collect by allowing Dongbu to be exempt from port charges for up to 70 years and, thus, the program constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. Further, we preliminarily determine that the exemptions confer a benefit under section 771(5)(E) of the Act. *Id.* No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Thus, for purposes of these preliminary results, we continue to find this aspect of the program countervailable.

In the *Cold–Rolled Investigation*, the Department treated the program as a non–recurring subsidy and determined that the benefit is equal to the average yearly amount of harbor fees exemptions provided to Dongbu. *Id.* For purposes of these preliminary results, we have employed the same benefit calculation. To calculate the net subsidy rate, we divided the average yearly amount of exemptions by Dongbu's total f.o.b. sales for the POR. On this basis, we preliminarily determine that Dongbu's net subsidy rate under this program is 0.02 percent *ad valorem*.

G. Short–Term Export Financing

The Korean Export Import Bank (KEXIM) supplies two types of short–term loans for exporting companies, short–term trade financing and comprehensive export financing. KEXIM provides short–term loans to Korean exporters who manufacture export goods under export contracts. The loans are provided up to the amount of the bill of exchange or contracted amount less any amount already received. For comprehensive export financing loans, KEXIM supplies short–term loans to any small or medium–sized company, or any large company that is not included in the five largest conglomerates based on their comprehensive export performance. To obtain the loans, companies must report their export performance periodically to KEXIM for review. Comprehensive export financing loans cover from 50 to 90 percent of the company's export performance; however, the maximum loan amount is restricted to 30 billion won.

In *Steel Products from Korea*, the Department determined that the GOK's short–term export financing program was countervailable. *See Steel Products from Korea*, 58 FR at 37350; *see also*, *Cold–Rolled Decision Memorandum*, at ''Short–term Export Financing.'' No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Therefore, we continue to find this program countervailable. Specifically, we preliminarily determine that the program is specific, pursuant section 771(5A)(B), because receipt of the financing is contingent upon exporting. In addition, we preliminarily determine that the export financing constitutes a financial contribution in the form of a loan within the meaning of section 771(D)(i) of the Act and confers a benefit within the meaning of section 771(E)(ii) of the Act. POCOS, POSCO's affiliate, and Dongbu reported using short–term export financing during the POR.

Pursuant to 19 CFR 351.505(a)(1), to calculate the benefit under this program, we compared the amount of interest paid under the program to the amount of interest that would have been paid on a comparable, commercial loan. As our benchmark, we used the short–term interest rates discussed above in the ''Subsidies Valuation Information'' section. To calculate the net subsidy rate, we divided the benefit by the f.o.b. value of the respective company's total exports. On this basis, we determine the net subsidy rate for POSCO to be less than 0.005 percent *ad valorem* and 0.01 percent *ad valorem* for Dongbu.

II. Program Preliminarily Determined Not to Confer a Benefit

A. Reserve for Research and Manpower Development Fund Under RSTA Article 9 (Formerly Article 8 of TERCL)

On December 28, 1998, the TERCL was replaced by the Tax Reduction and Exemption Control Act (RSTA). Pursuant to this change in law, TERCL Article 8 is now identified as RSTA Article 9. Apart from the name change, the operation of RSTA Article 9 is the same as the previous TERCL Article 8 and its Enforcement Decree.

This program allows a company operating in manufacturing or mining, or in a business prescribed by the Presidential Decree, to appropriate reserve funds to cover expenses related to the development or innovation of technology. These reserve funds are included in the company's losses and reduce the amount of taxes paid by the company. Under this program, capital goods companies and capital intensive companies can establish a reserve of five percent of total revenue, while companies in all other industries are only allowed to establish a three-percent reserve.

In the *CTL Plate Investigation*, we determined that this program is specific under section 771(5A)(D) of the Act because the capital goods industry is allowed to claim a larger tax reserve under this program than all other manufacturers. *See CTL Plate Investigation*, 64 FR at 73181. We also determined that this program provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue forgone and that it provides benefit under section 771(5)(E) of the Act to the extent that companies in the capital goods industry, which includes steel manufacturers, pay less in taxes than they would absent the program. *Id.* In the *Cold–Rolled Investigation*, we continued to find the program countervailable, but found that the company under review only contributed to the reserve at the lower three–percent rate. Therefore, we found no countervailable benefit because it is not specific as all industries and companies in Korea can establish a three–percent reserve. *See Cold–Rolled Decision Memorandum*, at ''Programs Determined to be Not Used'' (finding the countervailable aspect of this program to be not used). No new information, or evidence of changed circumstances, was presented in this review to warrant reconsideration of the approaches adopted in the *CTL Plate Investigation* and the *Cold–Rolled Investigation*.

In this administrative review, Dongbu, POSCO, and POCOS each reported contributing to the reserve at the three–percent rate during the POR. Dongbu also reported that it returned the remaining balance from the reserve. We continue to find this program to be potentially countervailable. However, as each company contributed to the reserve at the lower three–percent rate, and in light of the Department's approach in the *Cold–Rolled Investigation*, we preliminarily determine that no countervailable benefits were conferred under this program during the POR.

III. Programs Preliminarily Determined To Be Not Used

A. Reserve for Investment (Special Cases of Tax for Balanced Development Among Areas under TERCL Articles 41–45)
B. Electricity Discounts under the Requested Loan Adjustment (RLA) Program

C. Electricity Discounts under the Emergency Load Reductions (ELR) Program

D. Export Industry Facility Loans (EIFL) and Specialty Facility Loans
E. Reserve for Overseas Market

Development under TERCL Article 17
F. Equipment Investment to Promote Worker's Welfare under TERCL Article 88
G. Emergency Load Reduction Program

H. Local Tax Exemption on Land Outside of Metropolitan Area
I. Excessive Duty Drawback
J. Private Capital Inducement Act (PCIA)

K. Social Indirect Capital Investment Reserve Funds (Art. 28)
L. Energy–Savings Facilities Investment Reserve Funds (Art. 29)
M. Scrap Reserve Fund
N. Special Depreciation of Assets on Foreign Exchange Earnings
O. Export Insurance Rates Provided by the Korean Export Insurance Corporation

P. Loans from the National Agricultural Cooperation Federation

Q. Tax Incentives for Highly–Advanced Technology Businesses under the Foreign Investment and Foreign Capital Inducement Act

IV. Program Preliminarily Determined To Be Not Countervailable

A. Tax Credit for Improving Enterprise's Bill System under Article 7–2 of RSTA

During the POR, POSCO applied for a tax credit under this program. The GOK states that the program permits any company who uses a modern corporate billing/promissory note system to make payments for its purchases from small or medium enterprises to be eligible to claim a tax credit on its income taxes. The GOK provided the Department with the language of the regulation, which allows for three possible methods of payment: (a) issuing a bill of exchange or settling a request for collection of sale proceeds, (b) using an exclusive–use card for business purchase, or (c) using a loan system against security of credit sales claims. The tax credit is calculated as 0.3 percent of total amount paid pursuant to these methods described, but not exceeding 10 percent of a company's corporate income tax amount.

We preliminarily determine that the tax credit under Article 7–2 of RSTA is not de jure specific within the meaning of section 771(5A) of the Act because (1) it is not based on exportation; (2) it is not contingent on the use of domestic goods over imported goods; and (3) the legislation and/or regulations do not expressly limit the access to the subsidy to an enterprise or industry, as a matter of law.

As the Department is preliminarily determining that the tax credit under Article 7–2 of RSTA is not *de jure* specific, it must then examine the program under section 771(5A)(D)(iii) of the Act. The Department will determine that the program is *de facto* specific if the Department finds that one or more of the following factors exist:

(I) The actual recipients of the subsidy, whether considered on an enterprise or industry basis, are limited in number.
(II) An enterprise or industry is a predominant user of the subsidy.
(III) An enterprise or industry receives a disproportionately large amount of the subsidy.
(IV) The manner in which the authority providing the subsidy has exercised discretion in the decision to grant the subsidy indicates that an enterprise or industry is favored over others.

Pursuant to section 771(5A)(D)(iii)(I) of the Act, the Department preliminarily finds that under the tax credit under Article 7–2 of RSTA, the actual recipients of the subsidy are not limited in number. *See* GOK's December 21, 2005, Submission at Exhibit B–1.

Sections 771(5A)(D)(iii)(II) and (III) of the Act direct the Department to examine whether an enterprise or an industry is a predominant user of the subsidy or receives a disproportionately large amount of the subsidy. There is nothing on the record to indicate that the steel industry received a greater monetary benefit from the program than did other participants or that the steel industry was a dominant user or received disproportionate benefits. Rather, the GOK states that the tax credit is widely available and can be used by any Korean company, regardless of industry and location, by claiming the tax credit on the tax return. *See* GOK's December 21, 2005, Submission, at 12.

Therefore, we preliminarily determine that the information on the record does not support a conclusion that the percentage of the benefits POSCO or the steel industry received were disproportionately high or that the company or the industry was a dominant user. Accordingly, we preliminarily find that the tax credit under Article 7–2 of RSTA is not *de facto* specific and is, therefore, not countervailable.

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each of the producer/exporters subject to this administrative review. For the period January 1, 2004, through December 31, 2004, we preliminarily determine the net subsidy rate for POSCO to be 0.07 percent *ad valorem* and preliminary determine the the net subsidy rate for Dongbu to be 0.39 percent ad valorem, both of which are *de minimis*. *See* 19 CFR 351.106(c)(1).

If the final results of this review remain the same as these preliminary results, the Department will instruct U.S. Customs and Border Protection (CBP), within 15 days of publication of the final results, to liquidate shipments of corrosion–resistant carbon steel flat products entered, or withdrawn from warehouse, for consumption from January 1, 2004, through December 31, 2004, at the rates indicated above. Also, the Department will instruct CBP to require new cash deposit rates for estimated countervailing duties of 0.00 percent for all shipments of corrosion–resistant carbon steel flat products from POSCO and Dongbu, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

We will instruct CBP to continue to collect cash deposits for non–reviewed companies at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed administrative proceeding for each company. These rates shall apply to all non–reviewed companies until a review of a company assigned these rates is requested.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the publication of these preliminary results. *See* 19 CFR 351.309 (c). Rebuttal briefs, which are limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. *See* 19 CFR 351.309(d). Parties who submit

argument in this proceeding are requested to submit with the argument: (1) A statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

This administrative review is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 31, 2006.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E6–14916 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 083106C]

Endangered and Threatened Species: Recovery Plan Preparation for 5 Evolutionarily Significant Units (ESUs) of Pacific Salmon and 5 Distinct Population Segments (DPSs) of Steelhead Trout

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of intent; request for information.

SUMMARY: NMFS announces its intent to develop recovery plans for 5 ESUs of Pacific salmon and 5 DPSs of steelhead trout in California that are listed as threatened or endangered under the Endangered Species Act (ESA) and also requests information from the public. NMFS is required by the ESA to develop and implement recovery plans for the conservation and survival of ESA-listed species. NMFS is coordinating with state, Federal, tribal, and local entities in California and intends to produce draft recovery plans by June 2007.

DATES: All information must be received no later than 5 p.m. Pacific Daylight Time on November 13, 2006. Information received after the deadline will be used to the maximum extent practicable.

ADDRESSES: Information may be submitted by any of the following methods:

- E-mail: Information for recovery planning may be submitted by e-mail to *RecoveryInfo.swr@noaa.gov*. Please include in the subject line of the e-mail the identifier ''Information for ESA Recovery Planning, Attention: (insert name of appropriate NMFS Recovery Coordinator)'' and specify the recovery domain to which your information applies. Please refer to the list of recovery domains and recovery coordinators provided below in the **FOR FURTHER INFORMATION CONTACT** section to determine the appropriate NMFS Recovery Coordinator and recovery domain. If information pertaining to more than one recovery domain will be submitted, then a separate e-mail should be sent for each domain, using the appropriate subject line in each e-mail.
- Mail: Information may be submitted by mail to Assistant Regional Administrator, Protected Species Division, NMFS, Sacramento Area Office, 650 Capitol Mall, Suite 8–300, Sacramento, California, 95814–4706. Please identify information as ''Information for ESA Recovery Planning'' and specify the recovery domain(s) to which your information applies (see the **FOR FURTHER INFORMATION CONTACT** section, below, to determine the appropriate domain).
- Hand Delivery/Courier: You may hand deliver information or have information delivered by courier to NMFS, Sacramento Area Office, 650 Capitol Mall, Suite 8–300, Sacramento, California, 95814–4706. Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays. Please identify information as ''Information for ESA Recovery Planning'' and specify the recovery domain(s) to which your information applies (see the **FOR FURTHER INFORMATION CONTACT** section, below, to determine the appropriate domain).
- Fax: You may fax information to 916–930–3629. Please identify the fax comment as regarding ''Information for Recovery Planing'' and specify the recovery domain(s) to which your information applies (see the **FOR FURTHER INFORMATION CONTACT** section, below, to determine the appropriate domain).

FOR FURTHER INFORMATION CONTACT: Please contact the recovery coordinator listed here for the geographic area or recovery domain in which you are interested. Additional salmon-related materials are available on the Southwest Region's Internet site: *http://www.swr.noaa.gov*.

Southern Oregon/Northern California Coast Domain: Recovery Coordinator Greg Bryant at 707–825–5162 or by email at *Greg.Bryant@noaa.gov*

North-Central California Coast Domain: Recovery Coordinator Charlotte Ambrose at 707–575–6068 or by email at *Charlotte.A.Ambrose@noaa.gov*

South-Central California Coast Domain: Recovery Coordinator Mark Capelli at 805–963–6478 or by email at *Mark.Capelli@noaa.gov*

Central Valley Domain: Recovery Coordinator Diane Windham at 916–930–3619 or by email at *Diane.Windham@noaa.gov*

SUPPLEMENTARY INFORMATION:

Species Covered in This Notice

There are 5 ESUs of salmon and 5 DPSs of steelhead trout listed as threatened or endangered species in California including:

Chinook Salmon (*Oncorhynchus tshawytscha*): Sacramento River Winter-run, Central Valley Spring-run, and California Coastal.

Coho Salmon (*Oncorhynchus kisutch*): Southern Oregon/Northern California Coast, and Central California Coast.

Steelhead Trout (*Oncorhynchus mykiss*): Northern California Coast, Central California Coast, South-Central California Coast, Southern California Coast, and California Central Valley.

Background

NMFS is charged with the recovery of Pacific salmon and steelhead species listed under the ESA. Recovery under the ESA means that listed species and their ecosystems are restored, and their future secured, so that the protections of the ESA are no longer necessary.

The ESA requires that NMFS develop and implement recovery plans for the conservation and survival of endangered and threatened species. These recovery plans provide blueprints to determine priority recovery actions for funding

and implementation. The ESA specifies that recovery plans must include: (1) a description of site-specific management actions that may be necessary to achieve the plan's goals for the conservation and survival of the species; (2) objective, measurable criteria, which when met, would result in the species being removed from the list of threatened and endangered species; and (3) estimates of the time and costs required to achieve the plan's goal and achieve intermediate steps toward that goal. In addition, NMFS has developed interim recovery planning guidance (NMFS, 2004) that provides additional information to ensure consistency among recovery plans that are developed for all species managed by NMFS. The guidance also stresses the importance of involving stakeholders in the recovery planning process. NMFS will take into consideration all information we receive during this comment period in the preparation of draft recovery plans for salmon and steelhead in California.

In order to develop recovery plans that address multiple species in an ecosystem context, NMFS has organized its recovery planning activities in California into four recovery areas or ''domains'' (Southern Oregon/Northern California Coast, North-Central California Coast, South-Central California Coast, and California Central Valley). Each domain will have one or more recovery plans that address all the listed salmon ESUs and/or steelhead DPSs within it. While each recovery plan will meet the requirements of the ESA and will use consistent scientific principles, plan(s) for individual planning domains are expected to be different because of differences in species, the amount and quality of information regarding the species and habitat conditions, and differences in ongoing and planned conservation efforts such as CalFed in the Central Valley, the State of California coho salmon recovery plan on the north coast, and many other local planning efforts and intiatives.

To develop key technical products for all salmon ESUs and steelhead DPSs and to provide general science support, NMFS formed separate teams of scientists (called Technical Recovery Teams) for each of the four recovery planning domains described above. These teams are developing technical information on population structure of individual ESUs and DPSs, viability criteria for individual populations within ESUs and DPSs and for ESUs and DPSs as a whole, recommendations for future research, and a framework for monitoring the listed ESUs/DPSs.

Finally, NMFS has developed a schedule for producing draft recovery plans in each recovery domain by June 2007 and final recovery plans by January 2008. Because draft recovery plans may be developed using different approaches in the four domains and because of differences in information on the species in each domain, the level of detail in these draft recovery plans is expected to vary. NMFS will publish draft recovery plans in the **Federal Register** and public comment will be sought for each proposed plan.

NMFS requests relevant information from the public that should be addressed during preparation of draft recovery plans. Such information should address: (a) Biological and other criteria for removing the ESUs or DPSs from the list of threatened and endangered species; (b) factors that are presently limiting or threaten to limit survival of the ESUs or DPSs; (c) actions to address limiting factors and threats; (d) estimates of time and cost to implement recovery actions; and (e) research, monitoring, and evaluation needs.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: September 6, 2006.

Marta Nammack,

Acting Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–14986 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090506D]

Mid-Atlantic Fishery Management Council (MAFMC); Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of public meeting.

SUMMARY: The Mid-Atlantic Fishery Management Council's (MAFMC) Dogfish Monitoring Committee will hold a public meeting.

DATES: The meeting will be held on Tuesday, September 26, 2006, from 10 a.m. to 5 p.m. See **SUPPLEMENTARY INFORMATION** for meeting agenda.

ADDRESSES: The meeting will be held at Sheraton Providence Airport Hotel, 1850 Post Rd., Warwick, RI 02886, telephone: (401) 824–0670.

Council address: Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904, telephone: (302) 674–2331.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council; telephone: (302) 674–2331, extension 19.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to consider the appropriateness of making changes, if any, to management measures currently in place for the upcoming (2007–08) fishing year for spiny dogfish. Management measures that will be discussed may include, but may not necessarily be limited to, quotas and daily landing limits.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the MAFMC's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to M. Jan Saunders, (302) 674–2331 extension 18, at least 5 days prior to the meeting date.

Dated: September 6, 2006.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–14981 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090506E]

North Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council's (Council) Aleutian Island Ecosystem Team will meet in Seattle, WA.

DATES: The meeting will be held on Tuesday, September 26, 2006, from 8:30 a.m. to 4:30 p.m. and Wednesday, September 27, 2006, from 8:30 a.m. to 1 p.m.

ADDRESSES: The meeting will be held at the Alaska Fisheries Science Center, 7600 Sand Point Way NE. Bldg 9, Room 2039, Seattle, WA 98115.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Diana Evans, Council staff, telephone: (907) 271–2809.

SUPPLEMENTARY INFORMATION: The agenda will be as follows: Develop a plan for producing on Aleutian Island Fishery Ecosystem Plan, to review existing compilation materials, and to determine work assignments.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gail Bendixen at (907) 271–2809 at least 7 working days prior to the meeting date.

Dated: September 6, 2006.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. E6–14982 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.090506A]

Marine Mammals; File No. 774–1847

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that NMFS Southwest Fisheries Science Center, Antarctic Marine Living Resources Program (Rennie Holt, Ph.D., Principal Investigator), 8604 La Jolla Shores Drive, La Jolla, CA 92037 has been issued a permit to conduct research on Antarctic fur seals (*Arctocephalus gazella*) and leopard seals (*Hydrurga leptonyx*).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: On June 19, 2006, notice was published in the **Federal Register** (71 FR 35255) that a request for a scientific research permit to take Antarctic fur seals and leopard seals had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

The applicant will continue a long-term ecosystem monitoring program of pinniped species in the South Shetland Islands, Antarctica. The target species of the study are the Antarctic fur seals and leopard seals, but southern elephant seals (*Mirounga leonine*), crabeater seals (*Lobodon carcinophagus*), Ross seals (*Ommatophoca rossii*) and Weddell seals (*Leptonychotes weddellii*) could be disturbed by the life history studies and census surveys.

The applicant will take up to 710 Antarctic fur seals and 20 leopard seals annually. The animals will be captured, measured, weighed, tagged, blood sampled, and have time-depth recorders, VHF transmitters, and platform terminal transmitters attached. A subset of fur seals will be given an enema, have a tooth extracted, milk sampled, and be part of a doubly-labeled water study on energetics. A subset of leopard seals will be blubber and muscle sampled. The permit authorizes the research-related mortality of up to three Antarctic fur seals and one leopard seal annually.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: September 5, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–14987 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 090106B]

Marine Mammals; File No. 1070–1783

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that a permit held by Dr. Alejandro Acevedo-Gutierrez, Biology Department, Western Washington University, Bellingham, Washington (File No. 1070–1783) to conduct scientific research on harbor seals (*Phoca vitulina*) has been amended.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Bldg. 1, Seattle, WA 98115–0700; phone (206)526–6150; fax (206)526–6426.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Amy Sloan, (301)713–2289.

SUPPLEMENTARY INFORMATION: On June 29, 2006, notice was published in the **Federal Register** (71 FR 37060) that an amendment to Permit No. 1070–1783–00 had been requested by the above named individual. The requested amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

The permit has been amended to increase the number of harbor seals that may be harassed annually during scat collection and to add a sampling location. The objective of the research remains the same: to study temporal and spatial variation in numbers and diet composition of harbor seals to determine responses of harbor seals to changes in prey density and the impact of seal behavior on marine protected areas. The permit remains valid through March 2011.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that

issuance of the proposed permit is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: September 5, 2006.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–14997 Filed 9–8–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0147]

Federal Acquisition Regulation; Submission for OMB Review; Pollution Prevention and Right-to-Know Information

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0147).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat has submitted to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement concerning pollution prevention and right-to-know information. A request for public comments was published in the **Federal Register** at 71 FR 7020 on February 10, 2006. No comments were received.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before October 11, 2006.

ADDRESSES: Submit comments, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT William Clark, Contract Policy Division, GSA, (202) 219–1813.

SUPPLEMENTARY INFORMATION:

A. Purpose

Federal Acquisition Regulation (FAR) Subpart 23.10, implements Executive Order (E.O.) 13148 of April 21, 2000, *Greening the Government through Leadership in Environmental Management*, and it also provides a means for agencies to obtain contractor information for the implementation of environmental management systems (EMSs) and the completion of facility compliance audits (FCAs) at certain Federal facilities. This information collection will be accomplished by means of Alternates I and II to FAR clause 52.223–5. Alternate I of 52.223–5 require contractors to provide information needed by a Federal facility to implement an EMS and Alternate II of 52.223–5 requires contractors to complete an FCA. FAR Subpart 23.10 and its associated contract clause at FAR 52.223–5 also implement the requirements of E.O. 12856 of August 3, 1993, ''Federal Compliance With Right-To-Know Laws and Pollution Prevention Requirements.'' E.O. 12856 requires that Federal facilities comply with the planning and reporting requirements of the Pollution Prevention Act (PPA) of 1990 (42 U.S.C. 13101–13109), and the Emergency Planning and Community Right-to-Know Act (EPCRA) of 1986 (42 U.S.C. 11001–11050). The E.O. requires that contracts to be performed on a Federal facility provide for the contractor to supply to the Federal agency all information the Federal agency deems necessary to comply with these reporting requirements.

B. Annual Reporting Burden

Number of Respondents: *7,460.*
Responses Per Respondent: *1.*
Annual Responses: *7,460.*
Average Burden Per Response: *2.834.*
Total Burden Hours: *21,140.*

OBTAINING COPIES OF PROPOSALS: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control Number 9000–0147, Pollution Prevention and Right-to-Know Information, in all correspondence.

Dated: August 23, 2006.

Ralph De Stefano,

Director, Contract Policy Division.

[FR Doc. 06–7540 Filed 9–8–06; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board

AGENCY: Department of Defense.

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science Board will meet in closed session on February 7–8, 2007; May 9–10, 2007 and October 24–25, 2007, at the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Defense Science Board will discuss interim findings and recommendations results from ongoing Task Force activities. The Board will also discuss plans for future consideration of scientific and technical aspects of specific strategies, tactics, and policies as they may affect the U.S. national defense posture and homeland security.

In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended (5 U.S.C. App. 2), it has been determined that these Defense Science Board meetings concern matters listed in 5 U.S.C. 552b(c)(1) and that, accordingly, these meetings will be closed to the public.

FOR FURTHER INFORMATION CONTACT: Ms. Debra Rose, Executive Officer, Defense Science Board, 3140 Defense Pentagon, Room 3C553, Washington, DC 20301–3140, via e-mail at *debra.rose@osd.mil,* or via phone at (703) 571–0084.

Dated: September 5, 2006.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–7564 Filed 9–8–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education, Overview Information; Graduate Assistance in Areas of National Need; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2007

Catalog of Federal Domestic Assistance (CFDA) Number: 84.200A.

Dates: Applications Available: September 11, 2006. Deadline for Transmittal of Applications: November 20, 2006. Deadline for Intergovernmental Review: January 19, 2007.

Eligible Applicants: Academic departments of institutions of higher education that meet the requirements in 34 CFR 648.2.

Estimated Available Funds: The Administration has requested $9,725,000 for new awards under this program for FY 2007. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $126,672–$750,000.

Estimated Average Size of Awards: $216,111.

Estimated Number of Awards: 45.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: This program provides fellowships in areas of national need to assist graduate students with excellent academic records who demonstrate financial need and plan to pursue the highest degree available in their courses of study.

Priority: In accordance with 34 CFR 75.105(b)(2)(ii), this priority is from the regulations for this program (34 CFR 648.33(a) and Appendix to part 648-Academic Areas).

Absolute Priority: For FY 2007, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

Areas of National Need: A project must provide fellowships in one or more of the following areas of national need: Biology; General Chemistry; Computer and Information Sciences; General Engineering; General Mathematics; Nursing; and Physics.

Within this absolute priority the Secretary is particularly interested in applications that address the following invitational priority:

Invitational Priority: Under 34 CFR 75.105(c)(1) we do not give an application that meets this invitational priority a competitive or absolute preference over other applications.

This priority is:

Engineering programs that promote the development of alternative energy sources to reduce America's dependency on foreign oil. This invitational priority is consistent with the President's Advanced Energy Initiative.

Program Authority: 20 U.S.C. 1135.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 84, 85, 86, 97, 98, and 99. (b) The regulations for this program in 34 CFR Part 648.

II. Award Information

Type of Award: Discretionary grants, redistributed as fellowships to individual fellows.

Estimated Available Funds: The Administration has requested $9,725,000 for new awards under this program for FY 2007. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Estimated Range of Awards: $126,672–$750,000.

Estimated Average Size of Awards: $216,111.

Estimated Number of Awards: 45.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Stipend Level: The Secretary will determine the fellowship stipend for Graduate Assistance in Areas of National Need for the academic year 2007–2008 based on the level of support provided by the graduate fellowships of the National Science Foundation as of February 1, 2007. However, the Secretary will adjust the amount, as necessary, so as not to exceed the fellow's demonstrated level of financial need as calculated for purposes of the Federal student financial aid programs under Title IV, part F of the Higher Education Act of 1965, as amended.

Institutional Payment: The Secretary will determine the institutional payment for the academic year 2007–2008 by adjusting the previous academic year institutional payment, which is $12,224 per fellow, by the U.S. Department of Labor's Consumer Price Index for the 2006 calendar year.

III. Eligibility Information

1. *Eligible Applicants:* Academic departments of institutions of higher education that meet the requirements in 34 CFR 648.2.

2. *Cost Sharing or Matching:* This program involves matching (See 34 CFR 648.7).

3. *Other:* For requirements relating to selecting fellows, see 34 CFR 648.40.

IV. Application and Submission Information

1. *Address to Request Application Package:* Gary Thomas, U.S. Department of Education, 1990 K Street, NW., room 6016, Washington, DC 20006–8524. Fax: (202) 502–7859.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain a copy of the application package in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) by contacting the program contact person listed in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this program.

Page Limits: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III as follows:

- An application in a single discipline must be limited to the equivalent of no more than 40 pages.
- An interdisciplinary application must be limited to the equivalent of no more than 60 pages. An interdisciplinary application must request funding for a single proposed program of study that involves two or more academic disciplines.
- A multi-disciplinary application must be limited to the equivalent of no more than 40 pages for each academic discipline included in the proposal. A multi-disciplinary application must request funding for two or more proposed programs of study that are independent and unrelated to one another.
- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margin.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions. However, you

may single space all text in charts, tables, figures, and graphs. Charts, tables, figures, and graphs presented in the application narrative count toward the page limit.

• Use not less than a 12-point font. However, you may use a 10-point font in charts, tables, figures, graphs, footnotes, and endnotes.

• Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. Applications submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

• Appendices are limited to the following: Curriculum vitae—no more than two pages per faculty member; a course listing; letters of support; a bibliography; and one additional optional appendix relevant to the support of the proposal, not to exceed five pages.

The page limit does not apply to Part I, the cover sheet; Part II, the Budget section; the Assurances and Certifications; the one page abstract; or the appendices. However you must include all of the application narrative in Part III.

We will reject your application if:

• You apply these standards and exceed the page limit; or

• You apply other standards and exceed the equivalent of the page limit.

3. *Submission Dates and Times:*

Applications Available: September 11, 2006.

Deadline for Transmittal of Applications: November 20, 2006.

Applications for grants under this program must be submitted electronically using the Grants.gov Apply site (Grants.gov). For information (including dates and times) about how to submit your application electronically or by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Deadline for Intergovernmental Review: January 19, 2007.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this program.

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR 648.64. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. *Other Submission Requirements:* Applications for grants under this program must be submitted electronically, unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.* Applications for grants under the Graduate Assistance in Areas of National Need Competition—CFDA Number 84.200A must be submitted electronically using the Grants.gov Apply site at: *http://www.grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the Graduate Assistance in Areas of National Need Program at: *http://www.grants.gov*. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search.

Please note the following:

• When you enter the Grants.gov site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by Grants.gov are time and date stamped. Your application must be fully uploaded and submitted, and must be date/time stamped by the Grants.gov system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date/time stamped by the Grants.gov system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from Grants.gov, we will notify you if we are rejecting your application because it was date/time stamped by the Grants.gov system after 4:30 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.

• You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf*.

• To submit your application via Grants.gov, you must complete all of the steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include: (1) Registering your organization, (2) registering yourself as an Authorized Organization Representative (AOR), and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to successfully submit an application via Grants.gov.

• You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

• You must submit all documents electronically, including all information typically included on the following forms: Application for Federal Education Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application

for Federal Education Assistance). You must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified above or submit a password protected file, we will not review that material.

• Your electronic application must comply with any page limit requirements described in this notice.

• After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The Department will retrieve your application from Grants.gov and send you a second confirmation by e-mail that will include a PR/Award number (an ED-specified identifying number unique to your application).

• We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically, or by hand delivery. You also may mail your application by following the mailing instructions as described elsewhere in this notice. If you submit an application after 4:30 p.m., Washington, DC time, on the deadline date, please contact the person listed elsewhere in this notice under **FOR FURTHER INFORMATION CONTACT**, and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number (if available). We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: Extensions referred to in this section apply only to the unavailability of or technical problems with the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the Grants.gov system because—

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the Grants.gov system; and

• No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevent you from using the Internet to submit your application. If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Gary Thomas, U.S. Department of Education, 1990 K Street, NW., room 6016, Washington, DC 20006–8521. Fax: (202) 502–7859.

Your paper application must be submitted in accordance with the mail or hand delivery instructions described in this notice.

b. *Submission of Paper Applications by Mail.* If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier), your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number: 84.200A), 400 Maryland Avenue, SW., Washington, DC 20202–4260; or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center—Stop 4260, Attention: (CFDA Number: 84.200A), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark,

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service,

(3) A dated shipping label, invoice, or receipt from a commercial carrier, or

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark, or

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number: 84.200A), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department:

(1) You must indicate on the envelope and—if not provided by the Department—in Item 4 of the Application for Federal Education Assistance (SF 424) the CFDA number—and suffix letter, if any—of the competition under which you are submitting your application.

(2) The Application Control Center will mail a grant application receipt acknowledgment to you. If you do not receive the grant application receipt acknowledgment within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this program are in 34 CFR 648.31.

2. *Review and Selection Process:* Additional factors we consider in selecting an application for an award are in 34 CFR 648.32.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may also notify you informally.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditure information as specified by the Secretary in 34 CFR 75.118 and in 34 CFR 648.66.

4. *Performance Measures:* Under the Government Performance and Results Act (GPRA), three measures have been developed for evaluating the overall effectiveness of the Graduate Assistance in Areas of National Need program: (1) The percentage of fellows in the Graduate Assistance in Areas of National Need program who obtain a terminal degree in an area of national need, compared to the national average; (2) The percentage of fellows in the Graduate Assistance in Areas of National Need program from traditionally underrepresented populations who obtain a terminal degree in an area of national need; and (3) The median duration of time from entering graduate school until degree completion compared to comparable doctoral students as identified annually in the Survey of Earned Doctorates.

All grantees will be expected to submit an annual performance report documenting their success in addressing these performance measures.

VII. Agency Contacts

For Further Information Contact: Gary Thomas, U.S. Department of Education, Graduate Assistance in Areas of National Need Program, 1990 K Street, NW., room 6016, Washington, DC 20006–8521. Telephone: (202) 502–7767 or by e-mail: *OPE_GAANN_PROGRAM@ed.gov.*

If you use a telecommunications device for the deaf (TDD), you may call the Federal Relay Service (FRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the program contact person listed in this section.

VIII. Other Information

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *www.ed.gov/news/fedregister*.

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html*.

Dated: September 6, 2006.

James F. Manning,

Acting Assistant Secretary, Office of Postsecondary Education.

[FR Doc. E6–15009 Filed 9–8–06; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP00–445–014]

Alliance Pipeline L.P.; Notice of Negotiated Rates

September 5, 2006.

Take notice that on August 31, 2006, Alliance Pipeline L.P. (Alliance) tendered for filing to become part of its FERC Gas Tariff, Original Volume No. 1, Ninth Revised Sheet No. 11, to become effective September 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14970 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–301–145]

ANR Pipeline Company; Notice of Negotiated Rate Filing

September 5, 2006.

Take notice that on August 30, 2006, ANR Pipeline Company (ANR), tendered for filing and approval amendments to Rate Schedule FTS–3 negotiated rate service agreements numbers 108179, 108181, and 110855 between ANR and Wisconsin Power and Light Company. These agreements are being amended to include contractual rights of first refusal.

ANR requests that the Commission accept and approve the subject negotiated rate agreement amendments to be effective September 1, 2006.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14962 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–537–000]

CenterPoint Energy-Mississippi River Transmission Corporation; Notice of Tariff Filing

September 5, 2006.

Take notice that on August 30, 2006, CenterPoint Energy-Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to be effective October 1, 2006:

Twelfth Revised Sheet No. 2.
Fifty-Eighth Revised Sheet No. 5.
Fifty-Eighth Revised Sheet No. 6.
Fifty-Fifth Revised Sheet No. 7.
Fifth Revised Sheet No. 227.
Fifth Revised Sheet No. 228.

MRT states that the purpose of this filing is to remove language from its tariff that references GRI surcharges.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14975 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP03–433–005]

Energy West Development, Inc.; Notice of Compliance Filing

September 5, 2006.

Take notice that on August 23, 2006, Energy West Development, Inc. (Energy West) tendered for filing an Addendum to its cost and revenue study filed July 13, 2006 to comply with the requirements of section 157.20(c)(3) and section 157.20(d) of the Commission's regulations. Energy West states that copies of the filing were served on parties on the official service list.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call

(866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on September 11, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14971 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–1230–000; Docket No. ER06–1231–000; Docket Nos. ER06–1232–000 and ER06–1232–001; Docket No. ER06–1233–000]

EPIC Merchant Energy NE, L.P.; EPIC Merchant Energy NY, L.P.; EPIC NJ/PA, L.P.; EPIC Merchant Energy Midwest, L.P.; Notice of Issuance of Order

September 5, 2006.

EPIC Merchant Energy NE, L.P., EPIC Merchant Energy NY, L.P., EPIC NJ/PA, L.P. and EPIC Merchant Energy Midwest, L.P. (EPIC Applicants) filed an application for market-based rate authority, with accompanying rate schedules. The proposed market-based rate schedules provide for the sale of energy, capacity and ancillary services at market-based rates. EPIC Applicants also requested waivers of various Commission regulations. In particular, EPIC Applicants requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by EPIC Applicants.

On August 23, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approvals of issuances of securities or assumptions of liability by EPIC Applicants should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is September 22, 2006.

Absent a request to be heard in opposition by the deadline above, EPIC Applicants are authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of EPIC Applicants, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of EPIC Applicants' issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14965 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER06–1039–000, ER06–1039–001 and ER06–1039–002]

Freedom Partners, LLC; Notice of Issuance of Order

September 5, 2006.

Freedom Partners, LLC (Freedom Partners) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy and capacity at market-based rates. Freedom Partners also requested waivers of various Commission regulations. In particular, Freedom Partners requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Freedom Partners.

On August 14, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approvals of issuances of securities or assumptions of liability by Freedom Partners should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is September 13, 2006.

Absent a request to be heard in opposition by the deadline above, Freedom Partners is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Freedom Partners, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Freedom Partners' issuances of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document.

Comments, protests, and interventions may be filed electronically via the internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14963 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–244–001]

High Island Offshore System L.L.C.; Notice To Place Tariff Sheets Into Effect

September 5, 2006.

Take notice that on August 30, 2006, High Island Offshore System L.L.C. (HIOS) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following, previously accepted tariff sheets for inclusion in HIOS's:

Substitute Fourth Revised Sheet No. 69.
Substitute Second Revised Sheet No. 104.
Substitute Fourth Revised Sheet No. 105.
Substitute Original Sheet No. 105A.
Substitute Second Revised Sheet No. 106.
Substitute First Revised Sheet No. 107.
Substitute First Revised Sheet No. 108.
Substitute Second Revised Sheet No. 173A.
Substitute First Revised Sheet No. 173B.

HIOS states that these tariff sheets were accepted and suspended by a March 31, 2006 Commission Order (114 FERC ¶ 61,337), to be effective September 1, 2006. HIOS is filing its motion to place these previously accepted tariff sheets into effect.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14973 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–540–000]

High Island Offshore System, L.L.C., Notice of Proposed Changes in FERC Gas Tariff

September 5, 2006.

Take notice that on August 31, 2006, High Island Offshore System, L.L.C. (HIOS) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to become effective October 1, 2006.

HIOS states that the proposed rate changes result in an increase of $13.8 million in total system revenues from jurisdictional service based on the 12-month base period ending June 30, 2006, as adjusted for known and measurable changes through the nine month test period ending March 31, 2007. HIOS further states that the rate change is necessary to compensate HIOS for increases in its operating costs, depreciation expense, and negative salvage expenses and to provide a reasonable management fee. HIOS notes that the rate change is also needed to recognize significant reductions in transportation throughput. HIOS also proposes to implement certain firm service enhancements applicable to future services. Finally, HIOS is proposing a new Rate Schedule FT–3, using a term-differentiated rate design.

HIOS states that a full copy of its filing is being served on all jurisdictional customers, applicable state commissions and interested parties that have requested service.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14976 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–434–000]

Michigan Gas Utilities Corporation; Notice of Application

September 1, 2006.

Take notice that on August 29, 2006, Michigan Gas Utilities Corporation (MGU), 899 S. Telegraph Road, Monroe, Michigan 48161, filed in Docket No. CP06–434–000, an application pursuant to section 7(f) of the Natural Gas Act (NGA) requesting the determination of a service area [1] within which MGU may, without further Commission authorization, enlarge or expand its natural gas distribution facilities. MGU

[1] MGU seeks a service area determination for Jamestown Township, Steuben County, Indiana, and Kinderhook Township, Branch County, Michigan, where MGU owns certain limited facilities in Indiana used to serve its customers in Lake George, Michigan.

also requests: (i) A finding that MGU qualifies as a local distribution company (LDC) for purposes of section 311 of the Natural Gas Policy Act of 1978 (NGPA); (ii) a waiver of the Commission's accounting and reporting requirements and other regulatory requirements ordinarily applicable to natural gas companies under the NGA and the NGPA; (iii) pregranted abandonment of this service; and (iv) such further relief the Commission may deem appropriate, all as more fully set forth in the application, which is on file with the Commission and open to public inspection. The filing may also be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions regarding this application should be directed to David J. Tyler, Michigan Gas Utilities Corporation, 899 S. Telegraph Road, Monroe, Michigan 48161, or at (734) 242–4652 (telephone); (734) 384–7276 (fax); *djtyler@wpsr.com.*

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 14 copies of filings made with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link.

Comment Date: 5 p.m. Eastern Time, September 11, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14960 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–534–000]

Northwest Pipeline Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 5, 2006.

Take notice that on August 30, 2006, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Twenty-Eighth Revised Sheet No. 14, to be effective October 1, 2006.

Northwest states that the purpose of this filing is to propose an increase from 1.92% to 2.01% in the fuel reimbursement factor for services under Northwest's transportation service rate schedules. Northwest states that the fuel reimbursement factor provides in-kind reimbursement to Northwest for fuel gas used and gas lost and unaccounted-for in its transmission system operations.

Northwest states that a copy of this filing has been served upon Northwest's customers and interested state regulatory commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14974 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–200–011]

Rockies Express Pipeline LLC; Notice of Negotiated Rate Filing

September 5, 2006.

Take notice that on August 31, 2006, Rockies Express Pipeline LLC (REX) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Seventh Revised sheet No. 22, with an effective date of September 1, 2006, in compliance with the Commission's letter order issued August 9, 2005, in Docket No. CP04–413–000.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14972 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–312–157]

Tennessee Gas Pipeline Company; Notice of Negotiated Rate Filing

September 5, 2006.

Take notice that on August 30, 2006, Tennessee Gas Pipeline Company (Tennessee) tendered for filing the following agreements and requests that the Commission approve the filing effective on the commencement date of the Shippers' FT–A Service Agreements:

(1) A gas transportation agreement between Tennessee and Anadarko Petroleum Corporation (Anadarko) pursuant to Tennessee's Rate Schedule FT–A dated August 28, 2006;

(2) A negotiated rate letter agreement between Tennessee and Anadarko dated February 3, 2006;

(3) A gas transportation agreement between Tennessee and Devon Energy Production Company, L.P. (Devon) pursuant to Tennessee's Rate Schedule FT–A dated August 28, 2006;

(4) A negotiated rate letter agreement between Tennessee and Devon dated February 3, 2006;

(5) A gas transportation agreement between Tennessee and Dominion Exploration and Production Company, Inc. (Dominion) pursuant to Tennessee's Rate Schedule FT–A dated August 28, 2006;

(6) A negotiated rate letter agreement between Tennessee and Dominion dated February 3, 2006;

(7) A gas transportation agreement between Tennessee and Hydro Gulf of Mexico, L.L.C. (Hydro) pursuant to Tennessee's Rate Schedule FT–A dated August 28, 2006;

(8) A negotiated rate letter agreement between Tennessee and Hydro dated February 3, 2006;

(9) A gas transportation agreement between Tennessee and Kerr-McGee Oil and Gas Corporation (Kerr-McGee) pursuant to Tennessee's Rate Schedule FT–A dated August 28, 2006; and

(10) A negotiated rate letter agreement between Tennessee and Kerr-McGee dated February 3, 2006.

Tennessee submits the gas transportation agreements and negotiated rate letter agreements to seek Commission approval of negotiated rate arrangements between Tennessee and Anadarko, Devon, Dominion, Hydro, and Kerr-McGee, respectively. Additionally, Tennessee submits the gas transportation agreements between Tennessee and Anadarko, Devon, Dominion, Hydro, and Kerr-McGee, respectively, because the gas transportation agreements contain provisions that deviate from Tennessee's pro forma Firm Transportation Agreement. Tennessee is therefore submitting the agreements for Commission review and approval.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14979 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–569–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

September 5, 2006.

Take notice that on August 31, 2006, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed on Appendix to the filing, to become effective October 1, 2006:

Transco states that the proposed changes would increase revenues from jurisdictional service by $281,550,886 based on the 12-month period ending May 31, 2006, as adjusted.

Transco states that the principal factors supporting the increase in cost of service are: (a) An increase in operation and maintenance expenses; (b) an increase in depreciation expense; (c) the inclusion of costs for asset retirement obligations; (d) an increase in rate base resulting from additional plant; and (e) an increase in rate of return and related taxes. Transco asserts that the instant filing fulfills Transco's obligation in Article VI of the April 12, 2002 Stipulation and Agreement in Docket Nos. RP01–245–000, et al. to file a NGA Section 4(e) general rate case no later than September 1, 2006.

Transco further states that the filing reflects the following changes: (1) Changes to the annual depreciation accrual rates for certain of its categories; (2) the reclassification of certain assets from transmission plant accounts to jurisdictional gathering plant accounts, and tariff sheets reflecting an amended list of gathering points; (3) an adjustment to the cost of service to remove the cost of service associated with the Hester Storage Field; (4) incremental rates under Rate Schedule WSS-Open Access related to the replacement of base gas, and tariff sheets reflecting revisions to Rate Schedules WSS Open Access and WSS that will allow Transco to make limited Section 4 rate filings to recover the costs associated with the purchase of the base gas; (5) revised tariff sheets to remove the revenue sharing provisions from Rate Schedules ICTS, PAL and ISS; (6) a modification to its cost allocation and rate design methodology for the commodity rates of its SunBelt and SouthCoast expansion projects to apply a consistent cost allocation and commodity rate design methodology to service using those projects; and (7) the elimination of monthly billing determinants and calculation of rates to five decimal places.

Transco states that copies of the filing are being mailed to its affected customers and interested State Commissions.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14978 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–1226–000]

Valero Power Marketing LLC; Notice of Issuance of Order

September 5, 2006.

Valero Power Marketing, LLC (Valero) filed an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy, capacity and ancillary services at market-based rates. Valero also requested waivers of various Commission regulations. In particular, Valero requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Valero.

On August 16, 2006, pursuant to delegated authority, the Director, Division of Tariffs and Market Development—West, granted the requests for blanket approval under part 34. The Director's order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard or to protest the blanket approvals of issuances of securities or assumptions of liability by Valero should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing motions to intervene or protest is September 15, 2006.

Absent a request to be heard in opposition by the deadline above, Valero is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Valero, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Valero's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the

Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov,* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14964 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–542–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

September 5, 2006.

Take notice that on August 31, 2006, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheets to become effective October 1, 2006.

Sixty-Fourth Revised Sheet No. 15
Thirty-Seventh Revised Sheet No. 15A
Sixty-Second Revised Sheet No. 18
Thirty-Seventh Revised Sheet No. 18A
Thirty-Seventh Revised Sheet No. 19
Thirty-Seventh Revised Sheet No. 20
Sixth Revised Sheet No. 724

Williston Basin states that the tariff sheets reflect revisions to the fuel reimbursement current percentage component of the Company's total fuel reimbursement percentages for gathering, storage and transportation services, and to the electric power reimbursement current rate component of the Company's total electric power reimbursement rates for gathering, storage and transportation services, pursuant to Williston Basin's Fuel and Electric Power Reimbursement Adjustment Provision contained in Section 38 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed in accordance with the provisions of Section 154.210 of the Commission's regulations (18 CFR 154.210). Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14977 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

August 30, 2006.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG06–76–000.
Applicants: Noble Clinton Windpark I, LLC.
Description: Noble Clinton Windpark I, LLC submits a Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 08/25/2006.
Accession Number: 20060829–0175.
Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: EG06–77–000.
Applicants: Noble Ellenberg Windpark, LLC.
Description: Noble Ellenberg Windpark, LLC submits a Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 08/25/2006.
Accession Number: 20060829–0176.
Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: EG06–78–000.
Applicants: Noble Altona Windpark, LLC.
Description: Noble Altona Windpark, LLC submits a Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 08/25/2006.
Accession Number: 20060829–0177.
Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: EG06–79–000.
Applicants: Noble Bliss Windpark, LLC.
Description: Noblie Bliss Windpark, LLC submits a notice of self-certification of exempt wholesale generator status.
Filed Date: 08/25/2006.
Accession Number: 20060829–0178.
Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER97–4345–020; ER98–511–008.
Applicants: Oklahoma Gas and Electric Company; OGE Energy Resources Inc.
Description: Oklahoma Gas and Electric Co et al. resubmits its 7/25/06 filing of proposed revisions to their respective market-based rate tariffs to allow the OGE Companies to sell power at market-based rates.
Filed Date: 08/25/2006.
Accession Number: 20060829–0181.
Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER05–911–001.
Applicants: Pacific Gas & Electric Company.
Description: Pacific Gas & Electric Company submits a compliance Electric Refund Report.
Filed Date: 08/28/2006.
Accession Number: 20060828–5048.
Comment Date: 5 p.m. Eastern Time on Monday, September 18, 2006.

Docket Numbers: ER06–451–001; ER06–641–002.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits a compliance filing

providing for revisions to its Open Access Transmission Tariff pursuant to Commission 7/26/06 order.

Filed Date: 08/25/2006.

Accession Number: 20060830–0006.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1162–002.

Applicants: Select Energy New York, Inc.

Description: Select Energy New York Inc submits Substitute Second Revised Sheet 1 & 2 as well as Substitute First Revised Sheet 3 in response to FERC's letter dated 7/26/06 with regards to its 6/20/06 original submittal.

Filed Date: 08/25/2006.

Accession Number: 20060829–0170.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1219–001.

Applicants: ISO New England Inc; Unitil Energy Systems, Inc.; Fitchburg Gas and Electric Light Company.

Description: ISO New England, Inc et al. submit revisions to their respective portions of the filing made on 6/30/06 as directed by the Commission in Order 676.

Filed Date: 08/25/2006.

Accession Number: 20060830–0005.

Comment Date: 5 p.m. Eastern Time on Friday, September 08, 2006.

Docket Numbers: ER06–1252–001: ER06–1201–001.

Applicants: E.ON U.S. LLC; E.ON U.S. Services, Inc; Louisville Gas & Electric Company.

Description: E.ON U.S. LLC on behalf of E.ON U.S. Services et al submits a revised and executed version of its interconnection agreement with East Kentucky Power Cooperative.

Filed Date: 08/25/2006.

Accession Number: 20060830–0004.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1393–000.

Applicants: California Independent System Operator Corporation.

Description: California Independent System Operator Corp notifies FERC of the revised transmission Access Charges effective 6/4/06 to implement the revised Transmission Revenue Requirement of Southern California Edison.

Filed Date: 08/23/2006.

Accession Number: 20060825–0009.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 13, 2006.

Docket Numbers: ER06–1407–000.

Applicants: Noble Bliss Windpark, LLC.

Description: Noble Bliss Windpark, LLC submits an application for order accepting initial tariff, waiving regulations and granting Blanket Approvals and request for expedited consideration.

Filed Date: 08/25/2006.

Accession Number: 20060829–0173.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1408–000.

Applicants: Noble Ellenberg Windpark, LLC.

Description: Noble Ellenburg Windpark, LLC submits an application for order accepting initial tariff, waiving regulations and granting Blanket Approvals and request for expedited consideration.

Filed Date: 08/25/2006.

Accession Number: 20060829–0172.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1409–000.

Applicants: Noble Altona Windpark, LLC.

Description: Noble Altona Windpark, LLC submits an application accepting initial tariff, waiving regulations and granting blanket approvals and request for expedited consideration.

Filed Date: 08/25/2006.

Accession Number: 20060829–0171.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1410–000; ER06–1411–000.

Applicants: Entergy Nuclear Palisades, LLC; Entergy Nuclear Power Marketing, LLC.

Description: Entergy Nuclear Palisades LLC submits an application for order accepting initial market-based tariff, waiving regulations, and granting blanket approvals, and Entergy Nuclear Power Marketing LLC submits a revised tariff.

Filed Date: 08/25/2006.

Accession Number: 20060829–0204.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1412–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator Inc submits proposed revisions to Section 43.7 of its Open Access Transmission and Energy Markets Tariff, FERC Electric Tariff, Third Revised Volume 1.

Filed Date: 08/25/2006.

Accession Number: 20060829–0203.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1413–000.

Applicants: Noble Clinton Windpark I, LLC.

Description: Noble Clinton Windpark I, LLC submits an application for order accepting initial tariff, waiving regulations, and granting blanket approvals and request for expedited consideration.

Filed Date: 08/25/2006.

Accession Number: 20060829–0202.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1414–000.

Applicants: Cinergy Marketing & Trading, LP.

Description: Cinergy Marketing & Trading, LP submits its application for waivers of Parts 41, 101 and 141 of FERC's regulations and for prior blanket authorization for future issuances of securities and assumption of liabilities.

Filed Date: 08/23/2006.

Accession Number: 20060829–0174.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 13, 2006.

Docket Numbers: ER06–1415–000.

Applicants: Western Systems Power Pool, Inc.

Description: Western Systems Power Pool Inc requests FERC to amend the WSPP Agreement to include Barclays Bank PLC, Central Arizona Water Conservation District et al. as members of the WSPP.

Filed Date: 08/25/2006.

Accession Number: 20060829–0201.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1416–000.

Applicants: Detroit Edison Company.

Description: The Detroit Edison Co submits its First Revised Sheet 23 et al to FERC Electric Tariff, First Revised Volume 5.

Filed Date: 08/25/2006.

Accession Number: 20060829–0179.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1417–000.

Applicants: Weyerhaeuser Company.

Description: Weyerhaeuser Co submits its Second Amended Petition for Market Based Rate Authority, Acceptance of Initial Rate Schedule Waivers & Blanket Authority, designated as Rate Schedule 1 pursuant to FERC's 11/17/03 Order.

Filed Date: 08/28/2006.

Accession Number: 20060830–0003.

Comment Date: 5 p.m. Eastern Time on Monday, September 18, 2006.

Docket Numbers: ER06–1418–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc submits proposed revisions to their Open Access Transmission and Energy Markets Tariff, FERC Electric Tariff, Third Revised Volume 1.

Filed Date: 08/28/2006.

Accession Number: 20060830–0002.

Comment Date: 5 p.m. Eastern Time on Monday, September 18, 2006.

Docket Numbers: ER06–1419–000.

Applicants: MeadWestvaco Virginia Corporation.

Description: MeadWestvaco Virginia Corp submits its Petition for Market-Based Rate Authority, Acceptance of Initial Rate Schedule, Waivers and Blanket Authority designated as Rate Schedule FERC 1 pursuant to FERC's 11/17/03 Order.

Filed Date: 08/28/2006.

Accession Number: 20060830–0001.

Comment Date: 5 p.m. Eastern Time on Monday, September 18, 2006.

Take notice that the Commission received the following electric securities filings.

Docket Numbers: ES06–63–000.

Applicants: MidAmerican Energy Company.

Description: MidAmerican Energy Company submits its application for authorization to issue and sell up to $600 million of bonds, notes, debentures, guarantees or other evidences of long-term indebtedness.

Filed Date: 08/25/2006.

Accession Number: 20060829–0199.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Number: ES06–64–000.

Applicants: Noble Ellenberg Windpark, LLC; Noble Bliss Windpark LLC; Noble Clinton Windpark I, LLC; Noble Altona Windpark, LLC.

Description: Noble Altona Windpark LLC, Noble Bliss Windpark LLC et al. submits its application for authorization to issue securities and assume liabilities and request for expedited consideration.

Filed Date: 08/25/2006.

Accession Number: 20060829–0200.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

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Magalie R. Salas,

Secretary.

[FR Doc. E6–14950 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 5, 2006.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–155–000.

Applicants: Entergy Nuclear Palisades, LLC; Consumers Energy Company.

Description: Entergy Nuclear Palisades, LLC, et al. submits a joint application for approval under section 203 of the Federal Power Act.

Filed Date: August 25, 2006.

Accession Number: 20060830–0018.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: EC06–156–000.

Applicants: BBPOP Wind Equity LLC; Caprock Wind LLC; Bank of America.

Description: BBPOP Wind Equity LLC et al submits filing of an Joint Application for Order Authorizing the Indirect Disposition of Jurisdictional Facilities.

Filed Date: August 29, 2006.

Accession Number: 20060830–0031.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 19, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER97–2801–014.

Applicants: PacifiCorp.

Description: PacifiCorp informs FERC of a change in status with regard to the characteristics previously relied upon in granting its market-based rate authority.

Filed Date: August 28, 2006.

Accession Number: 20060830–0026.

Comment Date: 5 p.m. Eastern Time on Monday, September 18, 2006.

Docket Numbers: ER02–2330–043.

Applicants: ISO New England Inc.

Description: ISO New England, Inc submits proposes to file changes to Market Rule 1 in compliance with FERC's May 31, 2006 Order under ER02–2330.

Filed Date: August 28, 2006.

Accession Number: 20060830–0043.

Comment Date: 5 p.m. Eastern Time on Monday, September 18, 2006.

Docket Numbers: ER06–1119–002.

Applicants: San Diego Gas & Electric Company.

Description: San Diego Gas & Electric Company submits corrected Revised Tariff Sheets 130 et al pursuant to the Commission's August 7, 2006 letter order.

Filed Date: August 29, 2006.

Accession Number: 20060830–0038.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 19, 2006.

Docket Numbers: ER06–1218–001.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits amendment to its initial July 3, 2006 filing of its Restated Operating Agreement and Open Access Transmission Tariff pursuant to the Commission's July 20, 2006 Final Rule.

Filed Date: August 28, 2006.

Accession Number: 20060830–0041.

Comment Date: 5 p.m. Eastern Time on Monday, September 11, 2006.

Docket Numbers: ER06–1293–001.

Applicants: Southern Companies Services Inc.

Description: Southern Company Services, Inc submits its First Revised Service Agreement 487 along with its revised cover page.

Filed Date: August 29, 2006.

Accession Number: 20060901–0119.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 19, 2006.

Docket Numbers: ER06–1420–000.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc on behalf of Midwest CRSG Parties submits its Midwest Contingency Reserve Sharing Group Agreement in compliance with NERC standards.

Filed Date: August 25, 2006.

Accession Number: 20060830–0042.

Comment Date: 5 p.m. Eastern Time on Friday, September 15, 2006.

Docket Numbers: ER06–1421–000.

Applicants: The Clearing Corporation.

Description: The Clearing Corp submits an application for order authorizing market-based rates for Electric Tariff Original Volume 1, waivers, blanket authorizations and request for expedited action.

Filed Date: August 29, 2006.

Accession Number: 20060831–0045.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 19, 2006.

Docket Numbers: ER06–1422–000.

Applicants: Louisville Gas & Electric Company; Kentucky Utilities Company.

Description: Louisville Gas and Electric Co et al submit a request that FERC find that sales of energy directly or indirectly to Big Rivers Electric Corp in order to satisfy automatic reserve sharing agreement obligations or accept its section 205 application.

Filed Date: August 29, 2006.

Accession Number: 20060830–0037.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 19, 2006.

Docket Numbers: ER06–1423–000.

Applicants: Southern Company Services, Inc.

Description: Gulf Power Company submits materials in support of updated depreciation rates in the calculation of charges for service etc pursuant to certain jurisdictional contracts and rate schedules.

Filed Date: August 29, 2006.

Accession Number: 20060830–0036.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 19, 2006.

Docket Numbers: ER06–1424–000.

Applicants: Public Service Company of New Mexico.

Description: Public Service Co of New Mexico submits its Second Revised Network Integration Transmission Service Agreement and Second Revised Network Operating Agreement with Incorporated County of Los Alamos, NM.

Filed Date: August 30, 2006.

Accession Number: 20060901–0118.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 20, 2006.

Docket Numbers: ER06–1425–000.

Applicants: Kentucky Utilities Company.

Description: Kentucky Utilities submits a notice of cancellation of its transmission agreement with Eastern Kentucky Power Cooperative, effective August 31, 2006.

Filed Date: August 16, 2006.

Accession Number: 20060825–0010.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 6, 2006.

Docket Numbers: ER06–1426–000.

Applicants: Oklahoma Gas and Electric Company.

Description: Oklahoma Gas & Electric Co submits its Notice of Cancellation of Rate Schedule 125, Power Exchange Agreement with KAMO Electric Cooperative, Inc.

Filed Date: August 30, 2006.

Accession Number: 20060901–0052.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 20, 2006.

Docket Numbers: ER06–1427–000.

Applicants: NorthWestern Corporation.

Description: NorthWestern Corp submits its Rate Schedule 247, Agreement for Distribution Level Electric Interconnection Services with Missoula Electric Coop, Inc.

Filed Date: August 29, 2006.

Accession Number: 20060901–0054.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 19, 2006.

Docket Numbers: ER06–1428–000.

Applicants: Merrill Lynch Capital Services, Inc.

Description: Merrill Lynch Capital Services, Inc submits its Notice of Cancellation of its Market-Based Rate Tariff, FERC Electric Original Volume 1.

Filed Date: August 30, 2006.

Accession Number: 20060901–0057.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 20, 2006.

Docket Numbers: ER06–1429–000.

Applicants: Westar Energy, Inc.

Description: Westar Energy, Inc submits Rate Schedule FERC 171 Energy Management Agreement with Municipal Electric Utility Commission.

Filed Date: August 30, 2006.

Accession Number: 20060901–0056.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 20, 2006.

Docket Numbers: ER06–1430–000.

Applicants: SP Newsprint CO.

Description: SP Newsprint CO submits its Petition for Order Accepting Market-Based Rate Schedule for Filling and Granting Waivers and Blanket Approvals.

Filed Date: August 29, 2006.

Accession Number: 20060901–0068.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 19, 2006.

Docket Numbers: ER06–1431–000.

Applicants: Florida Power & Light Company.

Description: Florida Power & Light Co submits its Engineering and Procurement for Oleander Unit 5 Interconnection with Southern Company Services, Inc Original Service Agreement 252.

Filed Date: August 29, 2006.

Accession Number: 20060901–0058.

Comment Date: 5 p.m. Eastern Time on Tuesday, September 19, 2006.

Docket Number: ER06–1432–000.

Applicants: Commonwealth Edison Company.

Description: Commonwealth Edison Company submits Interconnection Agreement and Construction Agreement with the City of Batavia and PJM Interconnection, LLC under ER06–1432.

Filed Date: August 30, 2006.

Accession Number: 20060901–0069.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 20, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

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are also available for review in the Commission's Public Reference Room in Washington, DC.

There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14951 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11945–001—Oregon]

Dorena Lake Dam Hydroelectric Project; Notice of Availability of Draft Environmental Assessment

September 1, 2006.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed Symbiotics, LLC's application for license for the proposed Dorena Lake Dam Project (or project), located on the Row River near the city of Cottage Grove, Lane County, Oregon, and has prepared a Draft Environmental Assessment (Draft EA) for the project. The proposed project would occupy less than 0.13 acre (5,655 square feet) of federal land administered by the U.S. Army Corps of Engineers and the U.S. Bureau of Land Management.

The Draft EA contains the staff's analysis of the potential future environmental effects of the project, and staff has concluded that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the Draft EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Any comments (an original and 8 copies) should be filed within 30 days from the date of this notice and should be addressed to Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix ''Dorena Lake Dam Project No. 11945–001'' to all comments. Comments may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-filing'' link. The Commission strongly encourages electronic filings.

For further information, contact Michael Henry by telephone at 503–552–2762 or by e-mail at *mike.henry@ferc.gov.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–14959 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP05–357–003]

Cheniere Creole Trail Pipeline, L.P.; Notice of Intent To Prepare an Environmental Assessment for the Proposed Creole Trail Segment I Amendment Project and Request for Comments on Environmental Issues

September 5, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that discusses the environmental impacts of Cheniere Creole Trail Pipeline, L.P. (Cheniere) proposed Creole Trail Segment I Amendment or Project) which involves extension of Creole Trail Pipeline by adding about 18.1 miles of 42-inch-diameter Pipeline (Segment I) to be located in Cameron Parish, Louisiana. The Creole Trail LNG and Pipeline Project was authorized on June 15, 2006.[1]

This notice announces the opening of the scoping period that will be used to gather environmental input from the public and interested agencies on the Project. Please note that the scoping period will close on October 5, 2006. Details on how to submit comments are provided in the Public Participation section of this notice.

This notice is being sent to potentially affected landowners along the Project route; Federal, State, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; and local libraries and newspapers.

With this notice, we[2] are asking Federal, State, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to cooperate with us in the preparation of the EA. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies which would like to request cooperating status should follow the instructions for filing comments described later in this notice. We encourage government representatives to notify their constituents of this planned Project and encourage them to comment on their areas of concern.

Some affected landowners may be contacted by a Project representative about the acquisition of an easement to construct, operate, and maintain the proposed pipeline. If so, the company should seek to negotiate a mutually acceptable agreement. In the event that the Project is certificated by the Commission, that approval conveys the right of eminent domain for securing easements for the pipeline. Therefore, if easement negotiations fail to produce an agreement, the company could initiate condemnation proceedings in accordance with State law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*).

A map illustrating the proposed Project is provided in Appendix 1.[3]

[1] On June 15, 2006, the Commission approved the Creole Trail LNG and Pipeline Project in Docket Nos. CP05–360–000, CP05–357–000, CP05–358–000, and CP05–359–000. The Creole Trail LNG Terminal and Pipeline Project included a liquefied natural gas (LNG) terminal and associated LNG facilities, 116.8 miles of dual 42-inch-diameter mainline pipeline, and associated pipeline facilities.

[2] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Office of Energy Projects.

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are

Continued

Non-Jurisdictional Facilities

There are no proposed non-jurisdictional facilities associated with this proposal.

Land Requirements for Construction

Construction of the Project would require a total of 273.30 acres of land, of which about 234.76 acres of land would be used for pipeline right-of-way and about 38.54 acres for temporary construction work areas at certain waterbody, road, pipeline crossings and for pipe storage areas, including a permanent access road. After construction about 108.81 acres would be retained as permanent pipeline right-of-way and permanent access road.

The EA Process

NEPA requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity under Section 7 of the Natural Gas Act. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received are considered during the preparation of the EA. By this notice, we are also asking Federal, State, and local agencies with jurisdiction and/or special expertise with respect to environmental issues to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating status should follow the instructions for filing comments below.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed Project under these general headings:

- Land use.
- Water resources, fisheries, and wetlands.
- Coastal marsh.
- Cultural resources.
- Vegetation and wildlife.
- Endangered and threatened species.

We will also evaluate possible alternatives to the proposed Project or portions of the Project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be included in the EA. Depending on the comments received during the scoping process, the EA would be published and mailed to Federal, State, and local agencies, Native American tribes, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period would be allotted for review of the EA. All comments received on the EA would be considered before we make our recommendations to the Commission. The EA is used by the Commission in its decision-making process to determine whether the Project is in the public convenience and necessity.

To ensure your comments are considered, please carefully follow the instructions in the public participation section described later in this notice.

Currently Identified Environmental Issues

We have identified several issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Creole Trail. This preliminary list of issues may be changed based on your comments and our analysis.

- Water Resources
- Impact on water quality; and
- Impact on wetlands and marsh
- Endangered and Threatened Species
- Land use

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Project. By becoming a commentor, your concerns may be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they may be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 2.
- Reference Docket No. CP05–357–003 on the original and both copies.
- Mail your comments so that they will be received in Washington, DC on or before October 5, 2006.

Please note that we are continuing to experience delays in mail deliveries from the U.S. Postal Service. As a result, we will include all comments that we receive within a reasonable time frame in our environmental analysis of this Project. However, the Commission strongly encourages electronic filing of any comments or interventions or protests to this proceeding. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide. Before you can file comments, you will need to open a free account which can be created on-line.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filings by other intervenors. Likewise, each intervenor must send one electronic copy (using the Commission's eFiling system) or 14 paper copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, *see* Appendix 2). Only intervenors have the right to seek rehearing of the Commission's decision.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Environmental Mailing List

If you do not want to send comments at this time, but still want to remain on our mailing list, please return the attached Mailing List Retention Form (Appendix 3). If you do not return the form, you will be taken off the mailing list.

available on the Commission's Internet Web site (*http://www.ferc.gov*) at the ''eLibrary'' link or from the Commission's Public Reference and Files Maintenance Branch at 1–202–502–8371. For instructions on connecting to eLibrary refer to the Additional Information section of this notice.

Additional Information

Additional information about the Project is available from the Commission's Office of External Affairs, at 1–866–208–FERC or on the FERC Internet Web site (*http://www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search'' and enter the docket number excluding the last three digits in the Docket Number field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, contact 1–202–502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14980 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF06–31–000]

Gulf South Pipeline Company, LP; Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Southeast Expansion Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meetings

September 5, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental impact statement (EIS) that will address the environmental impacts of the Southeast Expansion Project proposed by Gulf South Pipeline Company, LP (Gulf South). The Commission will use the EIS in its decision-making process to determine whether or not to authorize the project. This notice explains the scoping process we [1] will use to gather input from the public and interested agencies on the project. Your input will help us determine the issues that need to be evaluated in the EIS. Please note that the scoping period will close on October 5, 2006.

Comments may be submitted in written form or verbally. Further details on how to submit written comments are provided in the Public Participation section of this notice. Public scoping meetings are designed to provide another opportunity to offer comments on the proposed project. In lieu of sending written comments, we invite you to attend the public scoping meetings we have scheduled as follows:

Date and time	Location
Tuesday September 19, 2006, 7 p.m. to 10 p.m. (CST)	Mendenhall Civic Center, 1680–A Simpson Highway 149, Mendenhall, Mississippi 39114, Phone: 601/847–1212.
Wednesday September 20, 2006, 7 p.m. to 10 p.m. (CST)	Heidelberg Multi Purpose Building, 114 West Park Street, Heidelberg, Mississippi 39439, Phone: 601/787–3000.
Thursday September 21, 2006, 7 p.m. to 10 p.m. (CST)	Butler Civic Center, 110 North Academy Avenue, Butler, Alabama 36904, Phone: 205/459–3795.

Interested groups and individuals are encouraged to attend these meetings and to present comments on the environmental issues they believe should be addressed in the EIS. A transcript of each meeting will be generated so that comments are accurately recorded.

This notice is being sent to affected landowners; Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a Gulf South representative about the acquisition of an easement to construct, operate, and maintain the proposed project facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the FERC, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility on My Land? What Do I Need To Know?'' is available for viewing on the FERC Internet Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the FERC's proceedings.

Summary of the Proposed Project

Gulf South proposes to construct, own, operate, and maintain a natural gas pipeline to provide producers in eastern Texas and northern Louisiana a more eastern outlet for a portion of their production from the Barnett Shale, Bossier Sand and other fields that are being delivered in the Perryville, Louisiana area or the central Mississippi area and permit deliveries into the Florida markets via an interconnect with Destin Gas Transmission and into Northeast markets via the interconnect at Transco's Compressor Station 85. The Southeast Expansion Project facilities would be located in Simpson, Smith, Jasper and Clark Counties, Mississippi, and in Choctaw County, Alabama.[2] The general location of the proposed

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

[2] FERC staff is currently reviewing another Gulf South project, the East Texas to Mississippi Expansion Project (under pre-filing Docket Nos. PF06–017–000 and PF06–023–000), that would bring natural gas from Texas and Louisiana to the starting point of the Southeast Expansion Project.

pipeline is shown in the figure included as Appendix 1.[3]

The Southeast Expansion Project facilities under FERC jurisdiction would include:

- A 110-mile-long, 36-inch-diameter natural gas pipeline from Gulf South's existing Index 130 transmission pipeline in Simpson County, Mississippi to an interconnection with Transcontinental Pipe Line Company (Transco) in Choctaw County, Alabama (Transco's Compressor Station 85).
- A new 11,302 horsepower (hp) Harrisville Compressor Station at Milepost (MP) 0.0 in Simpson County, Mississippi.
- Five new meter and regulator (M&R) stations at receipt points with two intrastate pipelines, including:

—Southern Natural M&R at MP 45.5 in Smith County, Mississippi.
—Tennessee Gas M&R at MP 72.3 in Jasper County, Mississippi.
—Petal Gas M&R at MP 72.3 in Jasper County, Mississippi.
—Destin Gas M&R at MP 82.7 in Clarke County, Mississippi.
—Transco M&R Station at the proposed pipeline's interconnect with Transco's Station 85 at MP 110.3 in Choctaw County, Alabama.

- Eight mainline valves and two launcher/receiver sites.

The project would be designed and constructed to receive and transport about 700 million cubic feet of natural gas per day. Gulf South proposes to have the project constructed and operational by June 2008.

Land Requirements for Construction

As proposed, the typical construction right-of-way for the project pipeline would be 100 feet wide in uplands and 75 feet wide in wetlands. Following construction, Gulf South would retain a 50-foot-wide permanent right-of-way for operation of the project. Additional temporary extra workspaces beyond the typical construction right-of-way limits would be required at certain feature crossings (*e.g.*, roads, railroads, wetlands, or waterbodies), in areas with steep side slopes, or in association with special construction techniques.

Based on preliminary information, construction of the proposed project facilities would affect a total of about 1,674 acres of land. Following construction, about 669 acres would be maintained as permanent right-of-way, and about 8.5 acres of land would be maintained as new aboveground facility sites. The remaining 996.6 acres of temporary workspace (including all temporary construction rights-of-way, extra workspaces, and pipe storage and contractor yards) would be restored and allowed to revert to its former use.

The EIS Process

NEPA requires the Commission to take into account the environmental impacts that could result from an action when it considers whether or not an interstate natural gas pipeline should be approved. The FERC will use the EIS to consider the environmental impact that could result if the Gulf South project is authorized under section 7 of the Natural Gas Act. NEPA also requires us to discover and address concerns the public may have about proposals to be considered by the Commission. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EIS on the important environmental issues. With this Notice of Intent (NOI), the Commission staff is requesting public comments on the scope of the issues to be addressed in the EIS. All comments received will be considered during preparation of the EIS.

In the EIS we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Water resources;
- Wetlands and vegetation;
- Fish and wildlife;
- Threatened and endangered species;
- Cultural resources;
- Land use, recreation, and visual resources;
- Socioeconomics;
- Air quality and noise;
- Reliability and safety;
- Alternatives; and
- Cumulative impacts.

In the EIS, we will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on affected resources.

Our independent analysis of the issues will be included in a draft EIS. The draft EIS will be mailed to Federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; affected landowners; commentors; other interested parties; local libraries and newspapers; and the FERC's official service list for this proceeding. A 45-day comment period will be allotted for review of the draft EIS. We will consider all comments on the draft EIS and revise the document, as necessary, before issuing a final EIS. We will consider all comments on the final EIS before we make our recommendations to the Commission. To ensure that your comments are considered, please follow the instructions in the Public Participation section of this notice.

Although no formal application has been filed, the FERC staff has already initiated its NEPA review under its NEPA Pre-filing Process. The purpose of the Pre-filing Process is to encourage the early involvement of interested stakeholders and to identify and resolve issues before an application is filed with the FERC.

With this notice, we are asking federal, state, and local governmental agencies with jurisdiction and/or special expertise with respect to environmental issues to express their interest in becoming cooperating agencies for the preparation of the EIS. These agencies may choose to participate once they have evaluated the proposal relative to their responsibilities. Agencies that would like to request cooperating status should send a letter expressing that interest and expected level of involvement to the Secretary of the Commission at the address provided in the public participation section of this notice.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities, the environmental information provided by Gulf South, and early input from intervenors. This preliminary list of issues may be changed based on your comments and our analysis.

Geology and Soils:

—Potential impacts to fossil fuel and non-fossil fuel mineral resources.
—Impacts on agricultural, prime farmland, pastureland, and wetland soils.
—Impacts on Conservation Reserve Program and Wetland Reserve Program soils.
—Impacts on unconsolidated soils with severe erosion potential.

Water Resources and Wetlands:

—Potential effects on groundwater resources.
—Impacts on ephemeral, intermittent and perennial streams, including the

[3] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of all appendices, other than Appendix 1 (maps), are available on the Commission's Web site at the ''eLibrary'' link or from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary refer to the Public Participation section of this mail notice. Copies of the appendices were sent to all those receiving this notice in the mail. Requests for detailed maps of the proposed facilities should be made directly to Gulf South.

Big Creek, Strong River, Leaf River, West Tallahala Creek, Shubuta Creek, Tallahalla Creek, Chickasaway River, and Bucatunna Creek.
—Potential impacts on waterbodies greater than 100 feet in width including the Strong River.
—Impacts on wetlands.

Vegetation and Wildlife:

—Impacts on vegetation.
—Impacts on wildlife, wildlife habitat, and fisheries.
—Potential impacts on federally and state-listed threatened and endangered species.

Cultural Resources:

—Impacts on archaeological sites and other historic properties.

Land Use, Recreation, and Visual Resources:

—Potential impacts to existing land uses, including residences, suburban housing developments, cemeteries, agricultural lands, orchards, and managed forested lands.
—Visual effects of the proposed Harrisville Compressor Station and M&R Stations on surrounding areas.

Socioeconomics:

—Potential impacts and benefits of construction workforce on local housing, infrastructure, public services and economy.

Air and Noise Quality:

—Effects on air and noise quality from construction and operation of the Harrisville Compressor Station.

Reliability and Safety:

—Public safety and potential hazards associated with the transport of natural gas.

Alternatives:

—Assessment of route variations and route alignments to reduce or avoid environmental impacts.

Cumulative Impacts:

—Assessment of the effect of the proposed project when combined with other past, present, or reasonably foreseeable future actions in the project area.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the proposed project. By becoming a commentor, your concerns will be addressed in the EIS and considered by the Commission. Your comments should focus on the potential environmental effects, reasonable alternatives (including alternative facility sites and pipeline routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please carefully follow these instructions:

• Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.

• Label one copy of your comments for the attention of Gas Branch 2, DG2E.

• Reference Docket No. PF06–031–000 on the original and both copies.

• Mail your comments so that they will be received in Washington, DC on or before October 5, 2006.

The Commission strongly encourages electronic filing of any comments in response to this Notice of Intent. For information on electronically filing comments, please see the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link and the link to the User's Guide, as well as information in 18 CFR 385.2001(a)(1)(iii). Before you can submit comments you will need to create a free account, which can be created on-line.

Once Gulf South formally files its application with the Commission, you may want to become an official party to the proceeding known as an ''intervenor.'' Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in a Commission proceeding by filing a request to intervene. Instructions for becoming an intervenor are included in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that you may not request intervenor status at this time. You must wait until a formal application is filed with the Commission.

Environmental Mailing List

An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities.

If you received this notice, you are on the environmental mailing list for this project. If you do not want to send comments at this time, but still want to remain on our mailing list, please return the Information Request (Appendix 2). If you do not return the Information Request, you will be removed from the Commission's environmental mailing list.

Availability of Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at 1–866–208–FERC (3372) or on the FERC Internet Web site (*http://www.ferc.gov*) using the ''eLibrary link.'' Click on the eLibrary link, select ''General Search'' and enter the project docket number excluding the last three digits (*i.e.*, PF06–036) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or TTY, contact (202) 502–8659. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

In addition, the FERC now offers a free service called eSubscription that allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. To register for this service, go to *http://www.ferc.gov/esubscribenow.htm.*

Public meetings or site visits will be posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Finally, Gulf South has established an Internet Web site for this project: *http://www.gulfsouthpl.com/.* You can also request additional information directly from Gulf South at 1–877/972–8533 or Stephens, Kyle (Gulf South) *kyle.stephens@gulfsouthpl.com.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–14968 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 30, 2006.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12722–000.

c. *Date filed:* July 31, 2006.

d. *Applicant:* UEK Corporation.

e. *Name of Project:* Piscataqua Tidal Energy Hydroelectric Project.

f. *Location:* The project would be located in the Piscataqua River, in Rockingham County, New Hampshire.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. Philippe Vauthier, UEK Corporation, Box 3124 Annapolis, Maryland 21403, phone: (410) 267–6507.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) Up to 120 Bi-Directional Hydro Turbine Assembly for Tidal Deployment units consisting of, (2) two horizontal axis turbines 17 feet in diameter, 32 feet-wide, and 20 feet-long, (3) integrated generators with a capacity of 336.8 kW each, (4) biological protection screens and deterrent systems, (5) anchoring systems, (6) mooring lines, and (7) interconnection transmission lines. The project is estimated to have an annual generation of 221.79 gigawatt-hours per-year, which would be sold to a local utility

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov*. For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', ''COMPETING APPLICATION'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14952 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 30, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12679–000.

c. *Date Filed:* May 30, 2006.

d. *Applicant:* Ocean Renewable Power Company Alaska, LLC.

e. *Name of Project:* Cook Inlet OCGen™ Power Project.

f. *Location:* The project would be located in Cook Inlet between Knik Arm and the city of Anchorage, in Anchorage and Matanuska-Susitna Boroughs, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. Paul Wells, Ocean Renewable Power Company, LLC, 2430 NE 199th Street, N. Miami Beach, FL 33180, phone (305) 936–1515, Mr. Christopher Sauer, Ocean Renewable Power Company, LLC, 2723 W. Jetton Ave, Tampa, FL 33629, phone (305) 794–7590, Ms. Mary McCann, Devine Tarbell and Associates, 970 Baxter Blvd., Portland, ME 04103, phone (207) 775–4495.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 70 to 100 ocean current generation (OCGen™) modules each approximately 13 feet-wide, 49 feet-long, and 11 feet-high, consisting of, (2) an anchoring support structure, (3) two horizontally mounted turbines, (4) an integrated generator with a maximum capacity of 158 kilowatts, and (5) 35 kilovolt interconnection transmission lines. The project is estimated to have an annual generation of 741 megawatt-hours per-unit per-year.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', ''COMPETING APPLICATION'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for

filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,
Secretary.
[FR Doc. E6–14953 Filed 9–8–06; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene, Protests, and Comments

August 30, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12678–000.

c. *Date filed:* May 30, 2006.

d. *Applicant:* Ocean Renewable Power Company Alaska, LLC.

e. *Name of Project:* Resurrection Bay OCGen™ Power Project.

f. *Location:* The project would be located in Resurrection Bay in the Gulf of Alaska between Aialik Peninsula and Resurrection Peninsula, in Kenai Peninsula Borough, Alaska.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. Paul Wells, Ocean Renewable Power Company, LLC, 2430 NE 199th Street, N. Miami Beach, FL 33180, phone (305) 936–1515, Mr. Christopher Sauer, Ocean Renewable Power Company, LLC, 2723 W. Jetton Ave, Tampa, FL 33629, phone (305) 794–7590, Ms. Mary McCann, Devine Tarbell and Associates, 970 Baxter Blvd., Portland, ME 04103, phone (207) 775–4495.

i. *FERC Contact:* Chris Yeakel, (202) 502–8132.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Project:* The proposed project would consist of: (1) 100 to 150 ocean current generation (OCGen™) modules each approximately 13 feet-wide, 49 feet-long, and 11 feet-high, consisting of, (2) an anchoring support structure, (3) two horizontally mounted turbines, (4) an integrated generator with a maximum capacity of 158 kilowatts, and (5) 69 kilovolt interconnection transmission lines. The project is estimated to have an annual generation of 466 megawatt-hours per-unit per-year.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', ''COMPETING APPLICATION'' or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE.,

Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14954 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Non-Project Use of Project Lands and Waters and Soliciting Comments, Motions To Intervene, and Protests

August 31, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Request to Amendment Project License (Recreation Plan).

b. *Project No.:* 405–071.

c. *Date Filed:* July 28, 2006.

d. *Applicant:* Susquehanna Power Company and PECO Energy Power Company.

e. *Name of Project:* Conowingo Hydroelectric Project.

f. *Location:* The proposed action will take place at the Conowingo Hydroelectric Project on the Susquehanna River, which is located in Harford and Cecil Counties, Maryland and Lancaster and York Counties, Pennsylvania.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r) and §§ 799 and 801.

h. *Applicant Contact:* Mr. Brian J. McManus, Jones Day, 51 Louisiana Avenue, NW., Washington DC 20001–1700, (202) 879–5452.

i. *FERC Contact:* Any questions on this notice should be addressed to Brian Romanek at (202) 502–6175, or by e-mail: *Brian.Romanek@ferc.gov.*

j. *Deadline for filing comments and or motions:* October 2, 2006..

All documents (original and eight copies) should be filed with: Ms. Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–405–071) on any comments or motions filed. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages e-filings.

k. *Description of Request:* The licensee is requesting that the Commission amend the approved project recreation plan (plan) by: (1) Deleting the provision in the plan requiring the licensees to allow public fishing on the galley (catwalk), which is located on the downstream face of the powerhouse; (2) adding to the plan a provision that allows the licensee to construct a new boardwalk along the west side of the river in Harford County, immediately below the powerhouse and make certain other modifications to the public access area at Fisherman's Park; (3) adding to the plan a provision that allows the licensee to make public access enhancements below the dam on the east side of the river in Cecil County including shoreline fishing opportunities on Octarora Creek, from Md. 222 to the confluence of Octarora Creek and the Susquehanna River; and (4) opening more project land for public recreational use downstream of the dam.

l. *Location of the Application:* This filing is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov*, using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or for TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described applications. A copy of the applications may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14955 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

August 31, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Competing Preliminary Permit.

b. *Project No.:* 12719–000.

c. *Date filed:* July 25, 2006.

d. *Applicant:* Green Power Development, LLC.

e. *Name of Project:* Lace River Hydroelectric Project.

f. *Location:* The project would be located on the Lace River, within the Juneau Borough, Alaska. The proposed project would occupy lands within the Tongass National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Earle Ausman, Green Power Development, LLC, 1503 West 33rd Avenue, Anchorage, AK 99503, (907) 258–2420.

i. *FERC Contact:* Patricia W. Gillis at (202) 502–8735.

j. *Deadline for filing comments, protests, and motions to intervene:* October 2, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper; see 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the project number (P–12719–000) on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Competing Application:* Project No. 12661–000, Date Filed: March 31, 2006, Notice Issued: April 27, 2006, Due Date: June 27, 2006.

l. *Description of Project:* The proposed project would consist of: (1) A proposed directional tunnel and rock tap to the lake, (2) an existing reservoir having a surface area of 449 acres and a storage capacity of 14,500 acre-feet with a normal water surface elevation of 3,160 feet mean sea level, (3) a proposed 6,200-foot-long, 22-inch-diameter penstock, (4) a proposed powerhouse containing one or two generating units having a total installed capacity of 7,000-kilowatts, (5) a proposed open channel tailrace, (6) a proposed 5.8-mile-long, 14.4/24.9-kilovolt transmission line, and (7) appurtenant facilities. The proposed project would have an average annual generation of 56.8 gigawatt-hours, which would be sold to a local utility.

m. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

o. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

p. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

q. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

r. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14956 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Petition for Declaratory Order and Soliciting Comments, Motions To Intervene, and/or Protests

August 31, 2006.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Petition for Declaratory Order.

b. *Docket No:* DI06–3–000.

c. *Date Filed:* August 14, 2006.

d. *Applicant:* Kauai Island Utility Cooperative.

e. *Name of Project:* Upper and Lower Waiahi Hydroelectric Project.

f. *Location:* The Upper and Lower Waiahi Hydroelectric Project is located on the South Branch North Fork Wailua River, Waikoko Stream, Waiaka Stream, Iliiliua Stream and Waiahi Stream, Lihue District Lihue Koloa Forest Reserve near Lihue, Kauai County, Hawaii. The project is not located on Federal land.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Gary W. Peers, Projects Engineer, Kauai Island Utility Cooperative, 4463 Pahee Street, Lihue, Kauai, Hawaii, 96766; Telephone: (808) 246–8220; FAX: (808) 246–4344; E-mail: *gpeers@kiuc.coop.*

i. *FERC Contact:* Any questions on this notice should be addressed to Henry G. Ecton (202) 502–8768, or E-mail: *henry.ecton@ferc.gov.*

j. *Deadline for filing comments and/or motions:* October 2, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. Any questions, please contact the Secretary's Office. See, 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site at: *http://www.ferc.gov.*

Please include the docket number (DI06–3–000) on any protests, comments or motions filed.

k. *Description of Project:* The project consists of the Upper and Lower Waiahi Hydro projects. The Upper Waiahi Hydro project includes: (1) A 37-inch-diameter, 833-foot-long steel penstock, and a 21-inch-diameter, 21-foot-long steel penstock; (2) a 500–kW Pelton dual runner, single shaft turbine and a 625–kVA, 2300 V AC generator; (3) a powerhouse; and (4) appurtenant facilities. The Lower Waiahi Hydro Project includes: (1) A 37-inch-diameter, 783-foot-long steel penstock, with 25-inch-diameter, 8-foot-long steel penstock; (2) a 780–kW turbine and a 1,000 kVA, 2300 V AC generator; (3) a powerhouse; and (4) appurtenant facilities.

When a Petition for Declaratory Order is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) Would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Locations of the application:* Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the Web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at (866) 208–3676, or TTY, contact (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTESTS'', AND/OR ''MOTIONS TO INTERVENE'', as applicable, and the Docket Number of the particular application to which the filing refers. A copy of any motion to intervene must also be served upon each representative of the applicant specified in the particular application.

p. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14958 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepting for Filing and Soliciting Motions To Intervene, Protests and Comments

September 5, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* 12717–000.

c. *Date filed:* July 19, 2006.

d. *Applicant:* Northern Illinois Hydropower Corporation.

e. *Name of Project:* Brandon Road Project.

f. *Location:* On Des Plaines River, near Joliet, Will County, Illinois.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. Dennis Cohil, 801 Oakland Ave., Joliet, IL 60435, (815) 723–6314. Damon Zdunich, 519 N. Reed Street, Joliet, IL 60435, (815) 744–3741.

i. *FERC Contact:* Etta Foster, (202) 502–8769.

j. *Deadline for filing comments, protests, and motions to intervene:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–12717–000) on any comments, protests, or motions filed.

k. *Description of Project:* The proposed project would consist of: The existing U.S. Army Corps of Engineers' Brandon Road Lock and Dam; (1) An existing reservoir; (2) a proposed powerhouse containing two generating units with a total generating capacity of 6.6 MW; (3) a proposed 1.5 mile-long, 34-kVA overhead transmission line; (4) a proposed switchyard; (5) a tailrace, and (6) appurtenant facilities.

The project would have an estimated annual generation of approximately 55,166,000 KWh. The applicant plans to sell the generated energy.

l. *Location of Application:* A copy of the application is available for inspection and reproduction at the Commission in the Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Competing Preliminary Permit:* Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

o. *Competing Development Application:* Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

p. *Notice of Intent:* A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

q. *Proposed Scope of Studies under Permit:* A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

r. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper; See 18 CFR 385.2001 (a)(1)(iii) and the instructions on the Commission's Web site under ''e-filing'' link. The Commission strongly encourages electronic filing.

s. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', ''MOTION TO INTERVENE'', ''NOTICE OF INTENT'', or ''COMPETING APPLICATION'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

t. *Agency Comments:* Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14966 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License, and Soliciting Comments, Motions To Intervene, and Protests

September 5, 2006.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2512–060.

c. *Date Filed:* August 31, 2006.

d. *Applicants:* Alloy Power, LLC (transferor) and Hawks Nest Hydro LLC (Transferee).

e. *Name and Location of Project:* The Hawks Nest—Glen Ferris Project is located on the New and Kanawha Rivers in Fayette County, West Virginia.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

g. *Applicant Contacts:* For the transferor: James F. Bowe, Jr., Hugh E. Hilliard, Dewey Ballantine LLP, 1775 Pennsylvania Avenue, NW., Washington, DC 20006, (202) 862–1000.

For the transferee: Amy S. Koch, Jennifer Lokenvitz Schwitzer, Patton Boggs LLP, 2550 M Street, NW., Washington, DC 20037, (202) 457–5618.

h. *FERC Contact:* Robert Bell at (202) 502–6062.

i. *Deadline for filing comments, protests, and motions to intervene:* September 22, 2006.

All documents (original and eight copies) should be filed with: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings. Please include the Project Number on any comments or motions filed.

The Commission's Rules of Practice and Procedure require all intervenors filing a document with the Commission to serve a copy of that document on each person in the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the documents on that resource agency.

j. *Description of Application:* Applicants seek Commission approval to transfer the license for the Hawks Nest—Glen Ferris Project from Alloy Power, LLC (Alloy) to Hawks Nest Hydro LLC (Hawks Nest).

k. This filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number (P–2512) in the docket number field to access the document. For assistance, call toll-free 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all

protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents:* Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and eight copies to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicants specified in the particular application.

o. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicants. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicants' representatives.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14967 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR04–6–000]

Cranberry Pipeline Corp.; Notice of Technical Conference

September 5, 2006.

On November 14, 2005, Cranberry Pipeline Corp. (Cranberry) filed a revised statement of operating conditions in order to comply with the Commission's September 13, 2005 order in this proceeding. *Cranberry Pipeline Corp.*, 112 FERC ¶ 61,268 (2005). In its filing, Cranberry stated that if the Consumer Advocate Division of the State of West Virginia Public Service Commission (CAD) renewed its protests of the Statement of Operating Conditions, Cranberry requested that a technical conference be convened. In its December 18, 2005 protest of the compliance filing, CAD stated it had no objection to Cranberry's request for a technical conference.

On January 4, 2006, Cranberry answered the protests of CAD and the Public Service Commission of West Virginia, and reiterated that, in light of the two protests, it requested a technical conference to permit it to support its proposed terms and conditions for storage service, and to permit the parties to explain their respective positions.

Commission Staff therefore intends to hold a technical conference to discuss the issues raised by the protests to the compliance filing, and in addition to discuss operations of the two storage fields as they relate to the design of Cranberry's rates. The technical conference will be held at the office of the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. The date and time of the technical conference will be noticed at a later date.

FERC conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an e-mail to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or 202–208–1659 (TTY), or send a fax to 202–208–2106 with the required accommodations.

All interested parties and staff are permitted to attend. For further information please contact Eric Winterbauer at (202) 502–8329 or e-mail *eric.winterbauer@ferc.gov*.

Magalie R. Salas,

Secretary.

[FR Doc. E6–14969 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1971–079]

Idaho Power Company; Idaho/Oregon; Errata Notice

August 31, 2006.

On August 11, 2006, the Commission issued a ''Notice of Intent to Hold Public Meetings'' for the above-referenced proceeding. The notice is corrected as follows:

All meetings times are local time.

Boise, ID

Date: September 7, 2006.
Time: 7 to 11 p.m. (MDT).
Place: Doubletree Hotel Boise Riverside.
Address: 2900 Chinden Blvd., Boise, ID.

Date: September 8, 2006.
Time: 10:00 a.m. to 2:00 p.m. (MDT).
Place: Doubletree Hotel Boise Riverside.
Address: 2900 Chinden Blvd., Boise, ID.

Halfway, OR

Date: September 11, 2006.
Time: 7 to 9 p.m. (PDT).
Place: Lions Hall.
Address: Center Street, Halfway, OR .

Weiser, ID

Date: September 12, 2006.
Time: 7 to 9 p.m. (MDT).
Place: Weiser Senior Center.
Address: 115 E. Main Street, Weiser, ID.

Lewiston, ID

Date: September 13, 2006.
Time: 7 to 9 p.m. (PDT).
Place: Lewiston Community Center.
Address: 1424 Main Street, Lewiston, ID 83501 (A parking lot is available on G Street behind the Community Center).

Magalie R. Salas,

Secretary.

[FR Doc. E6–14957 Filed 9–8–06; 8:45 am]

BILLING CODE 6717–01–P

EXPORT-IMPORT BANK OF THE UNITED STATES

Sunshine Act Meeting

ACTION: Notice of an Open Meeting of the Board of Directors of the Export-Import Bank of the United States.

TIME AND PLACE: Thursday, September 14, 2006 at 9:30 a.m. The meeting will be held at Ex-Im Bank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

OPEN AGENDA ITEM: PEFCO Secured Note Issues (Resolution).

PUBLIC PARTICIPATION: The portion of the meeting, which relates to the above item, will be open to public participation. Attendees that are not employees of the Executive Branch will be required to sign in prior to the meeting.

FOR FURTHER INFORMATION CONTACT: Office of the Secretary, 811 Vermont Avenue, NW., Washington, DC 20571 (Telephone No. 202–565–3957).

Howard A. Schweitzer,

General Counsel.

[FR Doc. 06–7602 Filed 9–7–06; 3:46 pm]

BILLING CODE 6690–01–M

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Sunshine Act; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

Date and Time: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 14, 2006, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. *Approval of Minutes*

- August 10, 2006 (Open)

B. *New Business*

1. *Regulations*

- Financing for Processing and Marketing—Proposed Rule
- Privacy Act and Security Information—Final Rule

1. *Reports*

- Farm Credit System Building Association Quarterly Report

Closed Session*

- Office of Secondary Market Oversight Quarterly Report

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Dated: September 6, 2006.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 06–7594 Filed 9–07–06; 12:27 pm]

BILLING CODE 6705–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act; Notice of Meeting

DATE AND TIME: *Thursday, September 14, 2006 at 10 a.m.*

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This Meeting Will Be Open to the Public.

THE FOLLOWING ITEM HAS BEEN ADDED TO THE AGENDA: Draft Final Rules and E&J on Amendments to 11 CFR 102.12 and 102.13.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Biersack, Press Officer. Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 06–7592 Filed 9–7–06; 11:32 am]

BILLING CODE 6715–01–M

FEDERAL ELECTION COMMISSION

[Notice 2006–16]

Filing Dates for the Texas Special Election in the 22nd Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Texas has scheduled a special election on November 7, 2006, to fill the U.S. House of Representatives seat in the Twenty-Second Congressional District vacated by Representative Tom DeLay. There are two possible elections, but only one may be necessary. If no candidate wins a majority of votes in the Special General Election, the two top vote-getters, regardless of party affiliation, will participate in a Special Runoff Election on a date to be set by the Governor after November 7, 2006.

Committees participating in the Texas special election are required to file pre- and post-election reports.

FOR FURTHER INFORMATION CONTACT: Mr. Kevin R. Salley, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates participating in the Texas Special General Election shall file a 12-day Pre-General Report on October 26, 2006. If there is a majority winner, committees must also file a 30-day Post-General Report on December 7, 2006. (See chart below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2006 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Texas Special General Election by the close of books for the applicable report(s). (See chart below for the closing date for each report).

Committees filing monthly that support candidates in the Texas Special General Election should continue to file according to the monthly reporting schedule.

Disclosure of Electioneering Communications (Individuals and Other Unregistered Organizations)

As required by the Bipartisan Campaign Reform Act of 2002, the Federal Election Commission promulgated new electioneering communications rules governing television and radio communications that refer to a clearly identified Federal candidate and are distributed within 60 days prior to a special general election. See 11 CFR 100.29. The statute and regulations require, among other things, that individuals and other groups not registered with the FEC who make electioneering communications costing more than $10,000 in the aggregate in a calendar year disclose that activity to the Commission within 24 hours of the distribution of the communication. See 11 CFR 104.20.

The 60-day electioneering communications period in connection with the Texas Special General runs from September 8, 2006 through November 7, 2006.

Possible Special Runoff Election

In the event that no candidate receives a majority of the votes in the Special General Election, a Special Runoff Election will be held. The Commission will publish a future notice giving the filing dates for that election if it becomes necessary.

CALENDAR OF REPORTING DATES FOR TEXAS SPECIAL ELECTION

Report	Close of books [1]	Reg./cert. & overnight mailing date	Filing date
If Only The Special General Is Held (11/07/06), Committees Must File:			

CALENDAR OF REPORTING DATES FOR TEXAS SPECIAL ELECTION—Continued

Report	Close of books [1]	Reg./cert. & overnight mailing date	Filing date
Pre-General	10/18/06	10/23/06	10/26/06
Post-General	11/27/06	12/07/06	12/07/06
Year-End	12/31/06	01/31/07	01/31/07
If Two Elections Are Held, Committees Involved In Only The Special General (11/07/06) Must File:			
Pre-General	10/18/06	10/23/06	10/26/06
Year-End	12/31/06	01/31/07	01/31/07

[1] The period begins with the close of books of the last report filed by the committee. If the committee has filed no previous reports, the period begins with the date of the committee's first activity.

Dated: September 5, 2006.

Michael E. Toner,

Chairman, Federal Election Commission.

[FR Doc. E6–14961 Filed 9–8–06; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 6, 2006.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. ChoiceOne Financial Services, Inc., Sparta, Michigan; to merge with Valley Ridge Financial Corp., Kent City, Michigan, and thereby indirectly acquire voting shares of Valley Ridge Bank, Kent City, Michigan.

2. Town Bancshares, Inc., Antioch, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Town Community Bank and Trust (formerly Greater North Bank), Antioch, Illinois.

B. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Ashley Bancstock Company, Crossett, Arkansas; to acquire 100 percent of the voting shares of First Community Bank of Crawford County, Van Buren, Arkansas.

2. St. Elizabeth Bancshares, Inc., Saint Elizabeth, Missouri; to acquire 100 percent of the voting shares of Bank of Freeburg, Freeburg, Missouri.

Board of Governors of the Federal Reserve System, September 6, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–14988 Filed 9–8–06; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of August 8, 2006

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on August 8, 2006.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long-run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the Federal funds rate to an average of around 5¼ percent.

The vote encompassed approval of the paragraph below for inclusion in the statement to be released shortly after the meeting:

The Committee judges that some inflation risks remain. The extent and timing of any additional firming that may be needed to address these risks will depend on the evolution of the outlook for both inflation and economic growth, as implied by incoming information.

By order of the Federal Open Market Committee, August 31, 2006.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. E6–15015 Filed 9–8–06; 8:45 am]

BILLING CODE 6210–01–P

[1] Copies of the Minutes of the Federal Open Market Committee Meeting on August 8, 2006, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Notice

TIME AND DATE: 9 a.m. (EDT) September 18, 2006.

PLACE: 4th Floor Conference Room, 1250 H Street, NW., Washington, DC.

STATUS: Parts will be open to the public and parts closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the minutes of the August 21, 2006 Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Annual budget report.

4. Barclays and Watson Wyatt announcements.

Parts Closed to the Public

5. Procurement.
6. Personnel.

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: September 7, 2006.

Thomas K. Emswiler,

Secretary to the Board, Federal Retirement Thrift Investment Board.

[FR Doc. 06–7596 Filed 9–7–06; 1:54 pm]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the National Coordinator for Health Information Technology; American Health Information Community Consumer Empowerment Workgroup Meeting

ACTION: Announcement of meeting.

SUMMARY: This notice announces the ninth meeting of the American Health Information Community (''Community'') Consumer Empowerment Workgroup in accordance with the Federal Advisory Committee Act (Pub. L. No. 92–463, 5 U.S.C., App.)

DATES: September 18, 2006 from 10:30 a.m. to 5:30 p.m.

Place: Hubert H. Humphrey Building (200 Independence Avenue, SW., Washington, DC 20201), Conference Room 800 (Please bring your photo identification to enter a Federal building.)

Status: Open.

Purpose: At this meeting, the Community Consumer Empowerment Workgroup will discuss recently received information about personal health records, discuss the Workgroup's plan of work for the coming year, and receive information on personal health records (PHRs) and related matters.

Part of the meeting will be conducted in hearing format, in which the Workgroup will gather information about how to engage consumer interest in PHRs, health literacy, clinician and consumer incentives for using PHRs, and government policies related to PHRs. The Workgroup will invite representatives who can provide information about these matters. The format for the meeting will include two invited panels and time for questions and discussion. The meeting will include a time period during which members of the public may deliver brief (3 minutes or less) oral public comment. To be included on the public comment portion of the agenda, please contact Vernette Roberts via e-mail at *vernette.roberts@hhs.gov.*

SUPPLEMENTARY INFORMATION:

Public input, in the form of written testimony, is sought on the following issues:

1. Are there social marketing techniques or methodologies that can be applied to encourage the widespread use of personal health records?
2. Should a consumer outreach and education program be a coordinated public-private initiative and, if so, what are the logical steps to consider in the planning and implementation? Should there be an incremental approach to consumer education and outreach given the state of the marketplace and the current level of public awareness? What would be an appropriate role for the public sector?
3. Are there lessons learned from nationwide efforts (*e.g.* anti-smoking) or statewide efforts (*e.g.* car seat belt usage) to influence consumer behavior that are applicable to consumer education of PHRs?
4. How can health literacy be advanced through adoption and use of PHRs?
5. What incentives have been successfully to influence consumer adoption of PHRs? Are these one-time rewards, or is there a need to repeat these awards or to offer different incentives to encourage consumers to actively use their PHRs over time?
6. What incentives have been used successfully to influence clinician adoption of PHRs?
7. What consumer needs are not likely to be filled by market-driven solutions alone and should be addressed by public policy and public-private collaborations?
8. What public policy options for encouraging adoption of personal health records by consumers and for enabling interoperable data exchange are available and feasible to implement in the short-term and over the long-term?

Persons wishing to submit written testimony only (which should not exceed five double-spaced typewritten pages) should endeavor to submit it by September 18, 2006. Unfilled slots for oral testimony will be filled on the day of the meeting as time permits. Please consult Ms. Roberts for further information about these arrangements.

Further information about the Community's Consumer Empowerment Workgroup may be found at: *http://www.hhs.gov/healthit/ahic/ce_main.html.* The meeting will be available via Web cast at *www.eventcenterlive.com/cfmx/ec/login/login1.cfm?BID=67.*

If you have special needs for the meeting, please contact (202) 690–7151.

Dated: September 1, 2006.

Judith Sparrow,

Director, American Health Information Community, Office of Programs and Coordination, Office of the National Coordinator for Health Information Technology.

[FR Doc. 06–7537 Filed 9–8–06; 8:45 am]

BILLING CODE 4150–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC), National Center for Immunization and Respiratory Diseases (NCIRD) announces the following Federal Committee meeting.

Name: Advisory Committee on Immunization Practices (ACIP).

Times and Dates: October 25, 2006, 8 a.m.–6 p.m., October 26, 2006, 8 a.m.–4 p.m.

Place: Centers for Disease Control and Prevention, 1600 Clifton Road, NE., Global Communications Center, Room 232, Atlanta, Georgia 30333.

Status: Open to the public, limited only by space available. The meeting space accommodates approximately 330 people. Overflow space for real-time viewing will be available.

Purpose: The Committee is charged with advising the Director, CDC, on the appropriate uses of immunizing agents. In addition, under 42 U.S.C. 1396s, the Committee is mandated to establish and periodically review and, as appropriate, revise the list of vaccines for administration to vaccine-eligible children through the Vaccines for Children (VFC) program, along with schedules regarding the appropriate periodicity, dosage, and contraindications applicable to the vaccines.

Matters to be Discussed: The agenda will include discussions on immunization safety, vaccine financing, herpes zoster (shingles) vaccine, rabies vaccine, meningococcal vaccine (MCV4), influenza vaccine, human papillomavirus vaccine follow-up, evidence-based methods for development of ACIP recommendations, and agency updates. Agenda items are subject to change as priorities dictate.

Additional Information: In order to expedite the security clearance process at the CDC Roybal Campus on Clifton Road, all ACIP attendees are required to register on-line at *http://www.cdc.gov/nip/acip.* Registration instructions and forms can be found under the ''Upcoming Meetings'' tab. Please be sure to complete all the required fields before submitting your registration and submit no later than September 29, 2006.

Please Note: All non-U.S. citizens must pre-register by September 29, 2006. Access will not be allowed to the campus and registration will *NOT* be allowed on site at the time of the meeting. All non-U.S. citizens are required to complete the ''Access Request Form'' and register on-line at *http://www.cdc.gov/nip/acip.* The access request form can be obtained from the ACIP Web site and should be e-mailed directly back to Ms. Demetria Gardner at *dgardner@cdc.gov* upon completion.

For Further Information Contact: Demetria Gardner, Immunization Services Division, National Center for Immunization and Respiratory Diseases, CDC, 1600 Clifton Road, NE., (E–05), Atlanta, Georgia 30333, telephone 404/639–8836, fax 404/639–8905.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both the CDC and ATSDR.

Dated: September 1, 2006.

Alvin Hall,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E6–14949 Filed 9–8–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–5043–N]

RIN 0938–ZA90

Physician-Hospital Collaboration Demonstration

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice is to inform interested parties of an opportunity to apply to participate in a demonstration under section 646 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), the Medicare Health Care Quality Demonstration, to examine the effects of gainsharing aimed at improving the quality of care in a health delivery system. More specifically, the demonstration will determine if gainsharing is an effective means of aligning financial incentives to enhance quality and efficiency of care across an entire system of care. In contrast to traditional models of gainsharing, which focus on the inpatient stay, this demonstration will examine approaches that involve long-term follow-up to assure both documented improvements in quality and reductions in the overall costs of care. Projects must also be of sufficient size to ensure statistical robustness of the results. CMS is particularly interested in demonstration designs that track patients well beyond a hospital episode, to determine the impact of hospital-physician collaborations on preventing short- and longer-term complications, duplication of services, coordination of care across settings, and other quality improvements that hold great promise for eliminating preventable complications and unnecessary costs.

From the perspective of implementing and evaluating the demonstration, we also require some standardization of gainsharing approaches, physician payments, and hospital savings measurement across sites. Therefore, for the Section 646 Gainsharing Demonstration, CMS will operate projects submitted by consortia, comprising of health care groups and their affiliated hospitals. A limited number of projects will be operated in various geographic areas; no more than 72 hospitals can be included across all projects.

DATES: Applications for the demonstration under MMA section 646 will be considered timely if we receive them no later than 5 p.m., Eastern Standard Time (e.s.t.), on January 9, 2007.

FOR FURTHER INFORMATION CONTACT: Lisa Waters at (410) 786–6615 or *GAINSHARING@cms.hhs.gov.* Interested parties can obtain a complete solicitation, application, and supporting information on the following CMS Web sites at *http://www.cms.hhs.gov/DemoProjectsEvalRpts/MD/itemdetail.asp?filterType=none&filterByDID=-99&sortByDID=3&sortOrder=ascending&itemID=CMS1186653.*

Paper copies can be obtained by writing to Lisa Waters at the address listed in the **ADDRESSES** section of this notice.

ADDRESSES: Mail or deliver applications to the following address: Centers for Medicare & Medicaid Services, Attention: Lisa Waters, Mail Stop: C4–17–27, 7500 Security Boulevard, Baltimore, Maryland 21244.

Because of staff and resource limitations, we cannot accept applications by facsimile (FAX) transmission or by e-mail.

Eligible Organizations for MMA 646: As stipulated in the enabling legislation, physician groups, integrated delivery systems, or an organization representing regional coalitions of physician groups or integrated delivery systems are eligible to apply. A comprehensive list of all eligibility requirements can be found in the ''Eligible Organizations'' section of the solicitation. We envision projects that seek to improve quality and efficiency in several areas of each participating organization.

SUPPLEMENTARY INFORMATION:

I. Background

Section 646 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) amends title XVIII (42 U.S.C. 1395 *et seq.*) of the Social Security Act to establish the Medicare Health Care Quality (MHCQ) Demonstration Programs.

The MHCQ demonstration will test major changes to improve quality of care while increasing efficiency across an entire health care system. Broadly stated, the goals of the Medicare Health Care Quality demonstration are to:

- Improve patient safety;
- Enhance quality of care by increasing efficiency; and
- Reduce scientific uncertainty and the unwarranted variation in medical practice that results in both lower quality and higher costs.

II. Provisions of the Notice

This notice solicits applications to participate in the MMA Section 646 Medicare Hospital Gainsharing Demonstration that will assist in determining if gainsharing can align incentives between hospitals and physicians to improve the quality and efficiency of care provided to beneficiaries over episodes of care and across settings. The focus of each demonstration will be to link physician incentive payments to improvements in quality and efficiency. This demonstration will provide measures to ensure that the quality and efficiency of care provided to beneficiaries is monitored and improved. We envision projects that seek to improve quality and efficiency in several areas of each participating organization.

Overall, we seek demonstration models that result in savings to Medicare. We will assure this 3-year demonstration is budget neutral.

III. Collection of Information Requirements

This information collection requirement is subject to the Paperwork Reduction Act of 1995 (PRA); however, the collection is currently approved under OMB control number 0938–0880 entitled ''Medicare Demonstration Waiver Application.''

Authority: Section 646 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Public Law 108–173.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 7, 2006.

Mark B. McClellan,

Administrator , Centers for Medicare & Medicaid Services.

[FR Doc. 06–7574 Filed 9–6–06; 1:59 pm]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Data Collection; Comment Request; California Health Interview Survey 2007

Summary: In compliance with the requirement of section 3506 (c) (2) (A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, National Cancer Institute (NCI), the National Institute of Health (NIH) will publish periodic summaries of proposed projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

The first California Health Interview Survey (CHIS) Cancer Control Module (CCM) took place in 2001 (2000 CHIS CCM, OMB No. 0925–0478, **Federal Register**, May 8, 2000, Vol. 65, No. 89, p. 26620). The second survey took place in 2003 (2003 CHIS CCM, OMB No. 0925–0518, **Federal Register**, October 3, 2002, Volume 67, No. 192, pp. 62067–62068) and the third in 2005 (2005 CHIS CCM, OMB No. 0925–0000, **Federal Register**, Vol. 69, No. 150, Aug. 5, 2004, pp. 47450–47451, and **Federal Register**, Vol. 70, No. 1, Jan. 3, 2005, pp. 93–94).

Proposed Collection: Title: California Health Interview Survey (CHIS) 2007 Cancer Control Module (CCM). *Type of Information Collection Request:* New. *Need and Use of Information Collection:* The NCI has sponsored three Cancer Control Modules in the California Health Interview Survey (CHIS), and will be sponsoring a fourth to be administered in 2007. Other Federal government agencies have co-sponsored previous cycles of the survey.

The CHIS is a telephone survey designed to provide population-based, standardized health-related data to assess California's progress in meeting Healthy People 2010 objectives for the nation and the state. The CHIS sample is designed to provide statistically reliable estimates statewide, for California counties, and for California's ethnically and racially diverse population. Initiated by the UCLA Center for Health Policy Research, the California Department of Health Services, and the California Public Health Institute, the survey is funded by a number of public and private sources. It was first administered in 2001 to 55,428 adults, 5,801 adolescents, and 12,802 children; subsequently in 2003 to 42,043 adults, 4,010 adolescents, and 8,502 children; and in 2005 to 43,020 adults, 4,029 adolescents, and 11,358 children. These individuals are a representative sample of California's non-institutionalized population living in households.

CHIS 2007, the fourth bi-annual survey, is planned for administration to 48,000 adult Californians. The cancer control module, which is similar to that administered in CHIS 2001, CHIS 2003, and CHIS 2005, will allow NCI and other Federal agencies to examine various health- and disease-related topics. Examples include patterns and (when fielded in multiple years) trends in breast cancer screening, diet, physical activity, obesity, tobacco control and other disease risk factors, disease outcomes, discrimination, and neighborhood cohesion.

Because California is the most populous and the most racially and ethnically diverse state in the nation, the CHIS 2007 sample will yield adequate numbers of respondents in key ethnic and racial groups, including African Americans, Latinos, Asians, and American Indian/Alaska Natives. The Latino group will include large numbers of respondents in the Mexican, Central American, South American, and other Latino subgroups; the Asian group will include large numbers of respondents in the Chinese, Filipino, Japanese, Vietnamese, and Korean subgroups. NCI and other Federal agencies will use the California and National Health Interview Survey (CHIS, NHIS) data to conduct comparative analyses and better estimate cancer risk factors and screening among racial/ethnic minority populations. The CHIS sample size also permits NCI and other federal agencies to obtain estimates for ethnic subdomains of the population, for which NHIS has insufficient numbers for analysis.

Frequency of Response: One-time. *Affected public:* Individuals or households. *Types of Respondents:* U.S. adults (persons 18 years of age and older) and adolescents (persons of age 12–17 for whom the adult respondent is the parent or legal guardian of the adolescent residing in the household).

The annual reporting burden is as follows.

TABLE A.—ANNUALIZED BURDEN ESTIMATES FOR CHIS 2007 DATA COLLECTION

Data collection	Estimated number of respondents	Frequency of response	Average time per response	Annual hour burden
(1) Pilot Test:				
Demographics	150	1	.07	11
CCM	150	1	.03	4
2) Full Survey:				
Demographics	48,000	1	.07	3,360
CCM	48,000	1	.03	1,140
Totals	48,150			4,515

There are no Capital Costs to report. There are no Operating or Maintenance Costs to report.

Request for Comments: Written comments and/or suggestions from the public and affected agencies are invited on one or more of the following points: (1) Whether the proposed collection of information is necessary for the proposed performance of the functions of the agency, including whether the information shall have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the

information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

For Further Information Contact: To request more information on the proposed project or to obtain a copy of the data collection plans and instruments, contact Nancy Breen, Ph.D., Project Officer, National Cancer Institute, EPN 4005, 6130 Executive Boulevard MSC 7344, Bethesda Maryland 20852–7344, or call non-toll free number 301–496–8500 or e-mail your request, including your address to *breenn@mail.nih.gov*.

Comments Due Date: Comments regarding this information collection are best assured of having their full effect if received within 60 days of this publication.

Dated: August 29, 2006.

Rachelle Ragland-Greene,

NCI Project Clearance Liaison, National Institutes of Health.

[FR Doc. E6–14928 Filed 9–8–06; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Clinical Center; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the NIH Advisory Board for Clinical Research.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: NIH Advisory Board for Clinical Research.

Date: September 29, 2006.

Time: 10 a.m. to 2 p.m.

Agenda: To discuss budget and operations of the Clinical Center and NIH Intramural research issues.

Place: National Institutes of Health, Building 10, 10 Center Drive, 4–2551, CRC Medical Board Room, Bethesda, MD 20892.

Contact Person: Maureen E Gormley, Executive Secretary, Mark O. Hatfield Clinical Research Center, National Institutes of Health, Building 10, Room 6–2551, Bethesda, MD 20892, 301/496–2897.

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Dated: August 31, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7534 Filed 9–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; P01 Review.

Date: October 5, 2006.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hawthorne Suites Hotel, 300 Meredith Drive, Research Triangle Park, NC 27713.

Contact Person: Sally Eckert-Tiolotta, PhD, Scientific Review Administrator, National Inst. of Environmental Health Sciences, Office of Program Operations, Scientific Review Branch, P.O. Box 12233 MD EC–30, Research Triangle Park, NC 27709, (919) 541–1446, *eckertt1@niehs.nih.gov*.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel; SBRP Conference Support.

Date: October 5, 2006.

Time: 1:30 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, Rm 122, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: Janice B Allen, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institute of Environmental Health Science, P.O. Box 12233, MD EC–30/Room 3170 B, Research Triangle Park, NC 27709, 919/541–7556.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: August 31, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7536 Filed 9–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited as space available. Individuals who plan to attend and need special assistance, such as assign language interpretation or to other reasonable accommodations, should notify the contact person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals for potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individuals journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: October 19–20, 2006.

Open: October 19, 2006, 9 a.m. to 11 a.m.

Agenda: Administrative reports and program discussions.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 19, 2006, 11 a.m. to 5 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 20, 2006, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Sheldon Kotzin, MLS, Chief, Bibliographic Services Division, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Bldg 38A/Room 4N419, Bethesda, MD 20894, 301–496–6217, *Sheldon_Kotzin@nlm.nih.gov.*

Any interested person may file written comments with the Committee by forwarding the statement to the contact person listed on this notice. The statement should include the name, address, telephone number and, when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show a photo I.D. and sign in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program No. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 31, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 06–7535 Filed 9–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; SBIR–EAR Fellowships.

Date: October 4–5, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Judith A. Finkelstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892, (301) 435–1249, *finkelsj@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Biomedical Computing and Health Informatics Study Section.

Date: October 5, 2006.

Time: 7:30 a.m. to 7:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Park Clarion Hotel, 8400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bill Bunnag, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5124, MSC 7854, Bethesda, MD 20892, (301) 435–1177, *bunnagb@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Biomedical Imaging Technology Study Section.

Date: October 5–6, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Lee Rosen, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5116, MSC 7854, Bethesda, MD 20892, (301) 435–1171, *rosenl@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Medical Imaging Study Section.

Date: October 5–6, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate Hotel, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Eileen W. Bradley, DSC, Scientific Review Administrator and Chief, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5100, MSC 7854, Bethesda, MD 20892, (301) 435–1179, *bradleye@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Molecular Mechanisms, Genetics and Animal Models of Neurosychiatric Disorders.

Date: October 5, 2006.

Time: 8 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Boris P. Sokolov, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–435–1197, *rkream@netmail.hscbklyn.edu.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.

Date: October 5–6, 2006.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn on the Hill, 415 New Jersey Avenue, Washington, DC 20001.

Contact Person: Tera Bounds, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Pathogenic Eukaryotes Study Section.

Date: October 5–6, 2006.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Jean Hickman, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3194, MSC 7808, Bethesda, MD 20892, (301) 435–1146, *hickmanj@csr.nih.gov.*

Name of Committee: Hematology Integrated Review Group; Hematopoiesis Study Section.

Date: October 5–6, 2006.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Select Bethesda, 8120 Wisconsin Ave, Bethesda, MD 20814.

Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195, *sur@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Integrative Physiology of Obesity and Diabetes Study Section.

Date: October 5–6, 2006.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Reed A. Graves, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297, *gravesr@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics B Study Section.

Date: October 5–6, 2006.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: The River Inn, 924 25th Street, NW., Washington, DC 20037.
Contact Person: Richard A. Currie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function C Study Section.
Date: October 5–6, 2006.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: The Fairmont Washington, DC, 2401 M Street, NW., Washington, DC 20037.
Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4184, MSC 7824, Bethesda, MD 20892, (301) 435–1153, *revzina@csr.nih.gov.*

Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Neural Oxidative Metabolism and Death Study Section.
Date: October 5–6, 2006.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.
Contact Person: Carole L. Jelsema, PhD, Chief and Scientific Review Administrator, MDCN Scientific Review Group, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics A Study Section.
Date: October 5–6, 2006.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Washington, DC Hotel, 1221 22nd Street, NW., Washington, DC 20037.
Contact Person: Michael M. Sveda, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5152, MSC 7824, Bethesda, MD 20892, (301) 435–3565, *svedam@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Clinical Research and Field Studies of Infectious Diseases Study Section.
Date: October 5, 2006.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Bioengineering, Technology and Surgical Sciences Study Section.
Date: October 5–6, 2006.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Civic Center, 50 Eight Street, San Francisco, CA 94103.
Contact Person: Dharam S. Dhindsa, DVM, Ph.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group; Clinical and Integrative Diabetes and Obesity Study Section.
Date: October 5, 2006.
Time: 8 a.m. to 7 p.m.
Agenda: To review and evaluate grant applications.
Place: Double Tree Hotel, 8120 Wisconsin Ave., Bethesda, MD 20814.
Contact Person: Nancy Sheard, SCD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–E, MSC 7892, Bethesda, MD 20892, (301) 435–1154, *sheardb@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group; Clinical Neuroscience and Disease Study Section.
Date: October 5–6, 2006.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Rene Etcheberrigaray, M.D., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5196, MSC 7846, Bethesda, MD 20892, (301) 435–1246, *etcheber@csr.nih.gov.*

Name of Committee: Health of the Population Integrated Review Group; Cardiovascular and Sleep Epidemiology Study Section.
Date: October 5–6, 2006.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Clarion Hotel Bethesda Park, 8400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: J. Scott Osborne, PhD, MPH,Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4114, MSC 7816, Bethesda, MD 20892, (301) 435–1782, *osbornes@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Virology—B Study Section.
Date: October 5–6, 2006.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.
Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3200, MSC 7848, Bethesda, MD 20892, (301) 435–1050, *freundr@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Genomics, Computational Biology and Technology Study Section.
Date: October 5–6, 2006.
Time: 8:30 a.m. to 2 p.m.
Agenda: To review and evaluate grant applications.
Place: Beacon Hotel, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: Camilla E. Day, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7890, Bethesda, MD 20892, (301) 435–1037, *dayc@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics C Study Section.
Date: October 5–6, 2006.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1111 30th Street, NW., Washington, DC 20007.
Contact Person: Barbara Whitmarsh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, (301) 435–4511, *whitmarshb@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biodata Management and Analysis Study Section.
Date: October 5–6, 2006.
Time: 8:30 a.m. to 3:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Renaissance Mayflower Hotel, 1127 Connecticut Avenue, NW., Washington, DC 20036.
Contact Person: Marc Rigas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4194, MSC 7826, Bethesda, MD 20892, (301) 402–1074, *rigasm@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group; Membrane Biology and Protein Processing.
Date: October 5–6, 2006.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Janet M. Larkin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7840, Bethesda, MD 20892, (301) 435–1026, *larkinja@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Biobehavioral Regulation, Learning and Ethology Study Section.

Date: October 5–6, 2006.
Time: 9 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.
Contact Person: Luci Roberts, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3188, MSC 7848, Bethesda, MD 20892, (301) 435–0692, *roberlu@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Bioengineering, Technology, and Surgical Sciences Member Conflict.
Date: October 5, 2006.
Time: 1 p.m. to 3 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: Roberto J. Matus, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7854, Bethesda, MD 20892, (301) 435–2204, *matusr@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neurobiology of Learning and Memory Study Section.
Date: October 6, 2006.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: George Washington University Inn, 824 New Hampshire Ave., NW., Washington, DC 20037.
Contact Person: Bernard F. Driscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, (301) 435–1242, *driscolb@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 31, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7532 Filed 9–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Hepatobiliary Pathophysiology Study, September 18, 2006, 8:30 a.m. to September 19, 2006, 4 p.m., Ritz Carlton Hotel, 1150 22nd Street, NW., Washington, DC 20037 which was published in the **Federal Register** on August 10, 2006, 71 FR 45844.

The meeting will be held at the Carlton Hotel Bethesda Park, 8400 Wisconsin Avenue, Bethesda, MD 20814. The meeting date and time remain the same. The meeting is closed to the public.

Dated: August 31, 2006.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 06–7533 Filed 9–8–06; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Bureau of Customs and Border Protection

[USCBP–2006–0087]

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Sugar Beet Thick Juice

AGENCY: Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: The Bureau of Customs and Border Protection (CBP) has received a petition submitted on behalf of a domestic interested party requesting the reclassification under the Harmonized Tariff Schedule of the United States (HTSUS) of certain sugar beet thick juice. Petitioner contends that sugar beet thick juice competes directly with sugar and has been incorrectly classified in subheading 1702.90.4000, HTSUS, with a general rate of duty of 0.35¢ per liter, not subject to quota. Petitioner contends that the product is properly classifiable under various subheadings of heading 1701, HTSUS, or, in the alternative, in subheading 1702.90.5800, HTSUS, and subject to quota. This document invites comments with regard to the correctness of the current classification.

DATES: Comments must be received on or before November 13, 2006.

ADDRESSES: You may submit comments, identified by *docket number,* by *one* of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments via docket number USCBP–2006–0087.
- *Mail:* Trade and Commercial Regulations Branch, Office of Regulations and Rulings, Bureau of Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Instructions: All submissions received must include the agency name and docket number for this notice of domestic interested party petition concerning the tariff classification of sugar beet thick juice. All comments received will be posted without change to *http://www.regulations.gov*, including any personal information provided.

Docket: For access to the docket to read background documents or comments received go to *http://www.regulations.gov.* Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Bureau of Customs and Border Protection, Office of Regulations and Rulings, Trade and Commercial Regulations Branch, 799 9th Street, NW., 5th Floor, Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark, Trade and Commercial Regulations Branch, at (202) 572–8768.

FOR FURTHER INFORMATION CONTACT: Heather K. Pinnock, Tariff Classification and Marking Branch, Office of Regulations and Rulings, at (202) 572–8828.

SUPPLEMENTARY INFORMATION:

Background

A petition has been filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of the U.S. Beet Sugar Anticircumvention Coalition (USBSAC) representing over 85 percent of U.S. sugar beet processing capacity, requesting that Customs and Border Protection (CBP) reclassify imported sugar beet thick juice, as classified in New York Ruling letter (NY) J84482, dated October 21, 2003. CBP has classified this product under subheading 1702.90.4000, Harmonized Tariff Schedule of the United States, (HTSUS), which provides for: ''Other sugars * * * sugar syrups not containing added flavoring or coloring matter * * * other * * * derived from sugar cane or sugar beets * * * other * * * other'', and has a general duty rate of 0.35 cents per liter, and is not subject to tariff-rate quota restrictions. The petition contends that sugar beet thick juice is sugar, competes directly with sugar, and should be subject to tariff-rate quota restrictions. Classification under the HTSUS is determined in accordance with the General Rules of Interpretation (GRIs). GRI 1 provides that the classification of goods shall be determined according to the terms of the headings of the tariff schedule and any relative Section or

Chapter Notes. In the event that the goods cannot be classified solely on the basis of GRI 1, and if the headings and legal notes do not otherwise require, the remaining GRIs 2 through 6 may then be applied in order. Classification of sugar beet thick juice is based on the composition of the product.

In NY J84482, CBP classified sugar beet thick juice, labeled ''Taber Thick Juice'', in subheading 1702.90.4000 HTSUS, as sugar syrup not containing added flavoring or coloring, derived from sugar beets. Petitioner contends that classification of sugar beet thick juice in subheading 1702.90.4000, HTSUS, which is not subject to tariff-rate quota restrictions, is wrong and defeats the legislative purpose of the soluble non-sugar solid threshold in subheading 1702.90, HTSUS, which is to prevent products that compete directly with sugar from entering the United States free of quota. Petitioner states that NY J84482 is apparently based on findings that sugar beet thick juice: (1) Is a sugar syrup not containing added flavoring or coloring, (2) is derived from sugar beets, and (3) contains soluble non-sugar solids greater than 6 percent by weight of the total soluble solids. Petitioner asserts that this analysis is perfunctory and opens the floodgates for quota-free imports of a product that directly competes with sugar.

In support of its position, Petitioner relies on CBP Headquarters Ruling Letter (HQ) 961273, dated August 25, 1999 and the Final Notice of Revocation of Ruling Letter and Treatment Relating to Tariff Classification of Certain Sugar Syrups, 33 *Customs Bulletin* 35/36 (Sept. 8, 1999) (''Stuffed Molasses Revocation Ruling''), a United States Department of Agriculture (USDA) ruling (Dairy and Sweeteners Analysis Group, Commodity Credit Corporation, Feb. 28, 2003), and legislative history surrounding development of item 155.35 of the Tariff Schedules of the United States (TSUS), the predecessor to the HTSUS.

Petitioner argues that sugar beet thick juice is sugar, and it is for this reason that the USDA has determined that it is squarely covered by the program that regulates the sale of domestically processed sugar in the United States. Petitioner maintains that the only commercial use for sugar beet thick juice is for further processing into sugar for human consumption and, as such, sugar beet thick juice clearly competes with sugar for human consumption. Petitioner states that given the history of tariff engineering with sugar products, CBP should apply strict scrutiny and give careful consideration to the commercial identity of sugar beet thick juice.

CBP administers the tariff and follows the principles of classification as set forth by the GRIs and U.S. Notes. CBP has in the past found that, for tariff classification purposes, the percentage of soluble non-sugar solids present in sugar syrup determines where that syrup is classified. In this instance, NY J84482 indicates that the CBP laboratory determined that the submitted sample of the thick juice contained 7.7 percent soluble non-sugar solids in the total soluble solids. Petitioner does not dispute the chemical composition of the subject sugar beet thick juice. Rather, Petitioner states that products that compete with sugar should be classified in subheadings subject to quota, even if the product meets the terms of a quota-free subheading, such as 1702.90.40, HTSUS.

Petitioner submits that CBP should classify sugar beet thick juice as raw sugar under subheading 1701.12.1000 or 1701.12.5000, HTSUS, which provides for, *inter alia*, raw beet sugar, in solid form, not containing added flavoring or coloring matter. These subheadings are subject to quota. Petitioner states that there is no such thing as solid raw beet sugar—as a technical and commercial matter, it does not exist. Petitioner argues that, while heading 1701, HTSUS, generally applies to sugar solids, CBP should disregard the water contained in the sugar beet thick juice with the result that the remaining solid would contain a Brix of 68.7 and the non-sugar solids would account for 7.7 percent by weight of all the soluble solids.

CBP notes the well-established classification principle that goods are classified in their imported condition. *XTC Products, Inc.* v. *United States*, 771 F. Supp. 401, 405 (1991). See also *United States* v. *Citroen*, 223 U.S. 407 (1911). GRI 1 requires us to classify goods according to the terms of the headings of the HTSUS. By its terms, heading 1701 provides for: ''Cane or beet sugar and chemically pure sucrose, in solid form.'' In addition, Subheading Note 1 to Chapter 17, HTSUS, provides that for the purposes of subheading 1701.12 ''*raw sugar* means sugar whose content of sucrose by weight, in the dry state, corresponds to a polarimeter reading of less than 99.5 degrees.'' (Emphasis added.) EN 17.01 further explains that, ''sugar syrups of cane or beet sugar, consisting of aqueous solutions of sugars, are classified in heading 17.02 when not containing added flavoring or coloring matter and otherwise in heading 21.06.'' CBP has previously considered sugar beet thick juice to be precluded from classification in heading 1701, HTSUS, because it is an aqueous solution and not in solid form.

In the alternative, Petitioner submits that CBP should classify sugar beet thick juice as blended syrup under subheading 1702.90.5800, HTSUS. Subheading 1702.90.5800, HTSUS, provides for, *inter alia:* ''Other sugars; * * * sugar syrups not containing added flavoring or coloring matter * * *: Other * * *: Other: Other: Blended syrups described in additional U.S. note 4 to chapter 17: Other.'' Additional U.S. Note 4 to Chapter 17 provides: ''For the purposes of this schedule, the terms '*blended syrups described in additional U.S. note 4 to chapter 17*' means blended syrups containing sugars derived from sugar cane or sugar beets, capable of being further processed or mixed with similar or other ingredients, and not prepared for marketing to the ultimate consumer in the identical form and package in which imported.'' Petitioner contends that sugar beet thick juice can be reasonably interpreted to be a blended syrup within the meaning of the HTSUS, because sugar beet thick juice is formed through the blending of different sugar beet juices with various concentrations of sugar and viscosities (*e.g.*, carbonation juice, thin juice, thick juice).

It has been CBP's view that the ''blended syrups'' of subheading 1702.90.5800, HTSUS, do not include sugar beet thick juice that is formed through the blending of different sugar beet juices with various concentrations of sugar and viscosities (carbonation juice, thin juice, thick juice), as described by the Petitioner. Subheading 1702.90.5800, HTSUS, provides for sugar syrups *other* than those derived from sugar cane or sugar beets. When this subheading is analyzed in the context of Additional U.S. Note 4 to Chapter 17, HTSUS, CBP's view has been that the blended syrups of subheading 1702.90.5800, HTSUS, must partly consist of sugar syrups not derived from sugar cane or sugar beets. Because the entire Taber Thick Juice product is derived from sugar beets, CBP has considered it to be precluded from classification in subheading 1702.90.5800, HTSUS.

Comments

Pursuant to section 175.21(a), CBP Regulations (19 CFR § 175.21(a)), before making a determination on this matter, CBP invites written comments on the petition from interested parties.

The domestic interested party petition concerning the tariff classification of

sugar beet thick juice, as well as all comments received in response to this notice will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552, and Section 103.11(b), CBP Regulations (19 CFR 103.11(b)), between the hours of 9 a.m. and 4:30 p.m. on regular business days at the Bureau of Customs and Border Protection, Office of Regulations and Rulings, Trade and Commercial Regulations Branch, 799 9th Street, NW., 5th Floor, Washington, DC.

Arrangements to inspect submitted comments should be made in advance by calling Joseph Clark at 202–572–8768.

Authority: This notice is published in accordance with section 175.21(a), CBP Regulations (19 CFR 175.21(a)) and 19 U.S.C. 1516.

Dated: August 17, 2006.

Deborah J. Spero,

Acting Commissioner, Bureau of Customs and Border Protection.

[FR Doc. E6–14924 Filed 9–8–06; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1658–DR]

Texas; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Texas (FEMA–1658–DR), dated August 15, 2006, and related determinations.

EFFECTIVE DATE: August 25, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the incident period for this disaster is closed effective August 25, 2006.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–15013 Filed 9–8–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1658–DR]

Texas; Amendment No. 3 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, Department of Homeland Security.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Texas (FEMA–1658–DR), dated August 15, 2006, and related determinations.

EFFECTIVE DATE: September 1, 2006.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Texas is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 15, 2006:

All counties in the State of Texas are eligible to apply for assistance under the Hazard Mitigation Grant Program.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program—Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E6–15014 Filed 9–8–06; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–61]

Notice of Submission of Proposed Information Collection to OMB; Contract for Inspection Services—Turnkey

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Information is used by the PHA to obtain professional architectural services to assist in the administration of a construction contract and to inspect the installation of the work.

DATES: *Comments Due Date:* October 11, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Approval Number (2577–0007) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://hlannwp031.hud.gov/po/i/icbts/collectionsearch.cfm*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality,

utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Contract for Inspection Services—Turnkey.

OMB Approval Number: 2577–0007.

Form Numbers: HUD–5084.

Description of the Need for the Information and It's Proposed Use: ?Information is used by the PHA to obtain professional architectural services to assist in the administration of a construction contract and to inspect the installation of the work.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	76	1		2		152

Total Estimated Burden Hours: 152.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 1, 2006.

Lillian L. Deitzer,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. 06–7529 Filed 9–8–06; 8:45 am]

BILLING CODE 4210–67–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5044–N–16]

Notice of Submission of Proposed Information Collection to OMB: Energy Conservation for PHA-Owned or Leased Projects—Audits, Utility Allowances

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Public Housing Agencies (PHAs) are required to establish allowances for PHA-furnished utilities and for resident-purchased utilities. PHAs document, and provide for resident inspection, the basis upon which allowances and scheduled surcharges (and revisions thereof) are established. PHAs complete energy audits, benefit/cost analyses for individual vs. mastermetering. PHAs review tenant utility allowances. HUD is seeking reinstatement of the approval to collect this information.

The Department is soliciting public comments on the subject proposal.

DATES: Comments Due Date: November 13, 2006.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name/or OMB Control number and should be sent to: Aneita Waites, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, SW., Room 4116, Washington, DC 20410–5000; e-mail *Aneita_L._Waites@HUD.gov*. This is not a toll-free number. Copies of the proposed forms and other available documents may be obtained from Ms. Waites.

FOR FURTHER INFORMATION CONTACT: Aneita Waites, (202) 708–0713, extension 4114, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the name and telephone number of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

This Notice also lists the following information:

Title of Proposal: Energy Conservation for PHA-Owned or Leased Projects—Audits, Utility Allowances.

OMB Approval Number: 2577–0062.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use: In support of national energy conservation goals, Public Housing Agencies (PHAs) establish allowances for PHA-furnished utilities and for resident-purchased utilities. PHAs document, and provide for resident inspection, the basis upon which allowances and scheduled surcharges (and revisions thereof) are established. PHAs complete energy audits, benefit/cost analyses for individual vs. mastermetering. PHAs review tenant utility allowances.

Respondents: PHAs with PHA-owned or Leased Projects.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	3400	3400		3.9		13,268

Total Estimated Burden Hours: 13,268.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 1, 2006.

Merrie Nichols-Dixon,

Acting Deputy Assistant Secretary, Office of Policy, Program and Legislative Initiatives.

[FR Doc. E6–14919 Filed 9–8–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–60]

Notice of Submission of Proposed Information Collection to OMB; Direct Endorsement Underwriter/HUD Reviewer-Analysis of Appraisal Report

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

The information collection is used to capture information on appraisal reports considered deficient by the underwriter, and to document efforts to resolve any discrepancies. The basic respondents are lender underwriters.

DATES: *Comments Due Date: October 11, 2006.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2502–0477) and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–6974.

FOR FURTHER INFORMATION CONTACT: Lillian Deitzer, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; e-mail *Lillian_L_Deitzer@HUD.gov* or telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer or from HUD's Web site at *http://hlannwp031.hud.gov/po/i/icbts/collectionsearch.cfm.*

SUPPLEMENTARY INFORMATION: This notice informs the public that the Department of Housing and Urban Development has submitted to OMB a request for approval of the information collection described below. This notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

This notice also lists the following information:

Title of Proposal: Direct Endorsement Underwriter/HUD Reviewer-Analysis of Appraisal Report.

OMB Approval Number: 2502–0477.

Form Numbers: HUD–54114.

Description of the Need for the Information and Its Proposed Use:

The information collection is used to capture information on appraisal reports considered deficient by the underwriter, and to document efforts to resolve any discrepancies. The basic respondents are lender underwriters.

Frequency of Submission: On occasion.

	Number of Respondents	Annual Responses	×	Hours per Response	=	Burden Hours
Reporting Burden	375,000	1		0.05		18,750

Total Estimated Burden Hours: 18,750.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 1, 2006.

Lillian L. Deitzer,

Department Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–14920 Filed 9–8–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and marine mammals.

DATES: Written data, comments or requests must be received by October 11, 2006.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: Gibbon Conservation Center, Santa Clarita, CA, PRT–130533

The applicant requests a permit to import one live captive born female white-cheeked gibbon (*Hylobates leucogenys*) from the Wild Animal Park Planckendael, Belgium for the purpose of enhancement of the survival of the species.

Applicant: Smithsonian Institution National Zoological Park, Washington, DC, PRT–130449, 130450, 130451, 130551, and 134240.

The applicant requests a permit to import six captive born Przewalski's horses (*Equus przewalskii*) from Germany, Switzerland, and Belgium for the purpose of enhancement of the survival of the species through breeding and reintroduction.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR Part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Sea World, San Diego, CA, PRT–134585, 134586

The applicant requests permits to take two non-releasable walrus (*Odobenus rosmarus*) for the purpose of public display. The permit numbers and animals are: 134585, Tessa; 134586, Bocce. The animals were recovered as orphaned calves in Alaska in 2004 and 2005. The Service has determined that these animals do not demonstrate the skills and abilities needed to survive in the wild and considers them non-releasable. The applicant is applying for a permit to permanently hold these animals for the purpose of public display.

Applicant: Seattle Aquarium, Seattle, WA, PRT–134587, 134588, 134589, 134590, 134591

The applicant requests permits to take five non-releasable northern sea otters (*Enhydra lutris kenyoni*) for the purpose of public display. The permit numbers and animals are: 134587, Lootas; 134588, Nuka; 134589, Aniak; 134590, Adaa; 134591, Chugach. Lootas was recovered as an orphaned pup in Alaska in 1997. Nuka and Adaa were rescued as stranded pups in Alaska in 1989 and 2000. Aniak and Chugach were captive born in 2002 and 2005 from rescued parents. The Service has determined that these animals do not demonstrate the skills and abilities needed to survive in the wild and considers them non-releasable. The applicant is applying for a permit to permanently hold these animals for the purpose of public display.

Applicant: Point Defiance Zoo and Aquarium, Tacoma, WA, PRT–134592, 134593, 134594, 134595

The applicant requests permits to take three non-releasable northern sea otters (*Enhydra lutris kenyoni*) and one non-releasable walrus (*Odobenus rosmarus*) for the purpose of public display. The permit numbers and animals are: 134592, Toleak; 134593, Homer; 134594, Kenai; 134595, ET. Toleak was recovered as an orphaned pup in Washington in 2005. Homer and Kenai were rescued in Alaska in 1989. The walrus, ET, was rescued as a stranded calf in Alaska in 1982. The Service has determined that these animals do not demonstrate the skills and abilities needed to survive in the wild and considers them non-releasable. The applicant is applying for a permit to permanently hold these animals for the purpose of public display.

Applicant: Oregon Coast Aquarium, Newport, OR, PRT–134596

The applicant requests a permit to take one non-releasable northern sea otter (*Enhydra lutris kenyoni*) for the purpose of public display. Kodiak was rescued as a stranded pup in Alaska in 1989. The Service has determined that this animal does not demonstrate the skills and abilities needed to survive in the wild and considers it non-releasable. The applicant is applying for a permit to permanently hold this animal for the purpose of public display.

Applicant: Buckley V. Chappell, Forney, TX, PRT–127902

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Dated: August 25, 2006.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–15006 Filed 9–8–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

Endangered Species

Permit No.	Applicant	Receipt of application FEDERAL REGISTER notice	Permit issuance date
080831, 128998, 128999, 716917.	George Carden Circus, Intl	71 FR 37602; June 30, 2006.	August 18, 2006.
126707	Kevin Keith aka Kevin Keith's Primal Instinct	71 FR 37605; June 30, 2006	August 18, 2006

Dated: August 25, 2006.

Monica Farris,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E6–15007 Filed 9–8–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D.082906B]

Notice of Intent to Conduct Public Scoping Meeting and Prepare an Environmental Document for the Stanford University Habitat Conservation Plan, Palo Alto, CA

AGENCIES: Fish and Wildlife Service, (FWS), Interior; National Marine Fisheries Service, (NMFS), National Oceanic and Atmospheric Administration, (NOAA), Commerce.

ACTION: Notice of intent.

SUMMARY: The Fish and Wildlife Service and National Marine Fisheries Service (Services) advise interested parties of their intent to conduct public scoping meeting under the National Environmental Policy Act (NEPA) necessary to gather information to prepare an environmental assessment (EA) or environmental impact statement (EIS), (collectively referred to as ''environmental document''). The Services anticipate permit applications from Stanford University (Stanford) submitted under the Endangered Species Act (ESA) for the incidental take of federally listed species. The permit applications would be associated with the Stanford University Habitat Conservation Plan (Plan) at Stanford in Palo Alto, CA. We provide this notice to: describe the proposed Plan and possible alternatives; advise other Federal and state agencies, affected Tribes, and the public of our intent to prepare an environmental document; announce the initiation of a public scoping period; obtain information to assist the Services in determining whether to write an EA or EIS; and obtain suggestions and information on the scope of issues to be included in the environmental document.

DATES: A public meeting will be held on September 21, 2006, from 4 to 6 pm. Written comments should be received on or before October 11, 2006.

ADDRESSES: The meeting will be held on the Stanford Campus at Jordan Hall, 450 Serra Mall, Building 420, Room 040, Stanford, CA. Written comments or questions relating to the preparation of an environmental document and the NEPA process should be addressed to: Ms. Lori Rinek, Chief, Conservation Planning and Recovery Division, Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Room W–2605, Sacramento, CA 95825, facsimile 916–414–6713; Gary Stern, San Francisco Bay Region Team Leader, National Marine Fisheries Service, Santa Rosa Area Office, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95404, facsimile 707–578–3435; or *Stanford.HCP@NOAA.gov*.

FOR FURTHER INFORMATION CONTACT: Sheila Larsen, Fish and Wildlife Service or Lori Rinek, Chief, Conservation Planning and Recovery Division, Fish and Wildlife Service, at the address shown above or at 916–414–6600, or Gary Stern, National Marine Fisheries Service, at the address shown or at 707–575–6060.

SUPPLEMENTARY INFORMATION:

Background

Section 9 of the ESA (16 U.S.C. 1532 *et seq.*) and implementing regulations prohibit the ''taking'' of fish and wildlife species listed as endangered or threatened . The term ''take'' is defined under the ESA to mean harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct (16 U.S.C. 1532(19)). Harm is defined by the FWS to include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering (50 CFR 17.3). NMFS' definition of harm includes significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, spawning, migrating, rearing, and sheltering (64 FR 60727, November 8, 1999).

Section 10 of the ESA specifies requirements for the issuance of incidental take permits (permits) to non-Federal landowners for the take of endangered and threatened species. Any proposed take must be incidental to otherwise lawful activities, not appreciably reduce the likelihood of the survival and recovery of the species in the wild and minimize and mitigate the impacts of such take to the maximum extent practicable. In addition, an applicant must prepare a habitat conservation plan describing the impact that will likely result from such taking, the strategy for minimizing and mitigating the incidental take, the funding available to implement such steps, alternatives to such taking, and the reason such alternatives are not being implemented. To obtain a permit, the applicant must prepare a habitat conservation plan that meets the issuance criteria established by the Services (50 CFR 17.22(b)(2) and 222.307). Should permits be issued, the permits would include assurances under the Services' ''No Surprises'' regulations [50 CFR 17.22(b)(5) and 17.32(b)(5)].

Currently, three federally listed species are proposed for coverage under the Plan, and one additional species that may be listed in the future is also proposed to be covered. The federally listed species are the threatened California red-legged frog (*Rana aurora draytonii*), California tiger salamander (*Ambystoma californiense*), and steelhead (*Oncorhynchus mykiss*). The one unlisted species proposed for coverage is the western pond turtle (*Clemmys marmorata*). Species may be added or deleted during the course of Plan development based on further analysis.

Proposed Plan

Stanford is a major research university that owns 8,180 acres of contiguous land in northern Santa Clara County and southern San Mateo County. These lands consist of both developed and undeveloped areas. Most of the urban facilities, including academic buildings, housing, roads, pedestrian/bicycle pathways, and recreational facilities are located in the central part of the campus. A generally undeveloped ''Academic Reserve'' outside this core academic area is used for low intensity academic uses. Stanford maintains three open water reservoirs: Lagunita, Felt Lake, and Searsville. Some of Stanford's lands are leased for interim non-academic purposes.

Activities proposed to be covered by the Plan (Covered Activities) are generally activities related to water management, academic uses, maintenance and construction of new urban infrastructure, recreational and athletic uses, campus management and maintenance, activities carried out by Stanford's tenants and future development.

The draft Plan to be prepared by Stanford in support of the permit applications will describe the impacts of take on proposed covered species, and will propose a conservation strategy to minimize and mitigate those impacts on each covered species to the maximum extent practicable. Components of a

conservation program are now under consideration by the Services and Stanford. These components will likely include the following conservation strategy. Stanford has divided its 8,180 acres into four zones according to their relative habitat value for the Covered Species. Zone 1 (approximately 1,150 acres) supports, or provides critical resources for, one or more Covered Species. Zone 2 (approximately 1,260 acres) is occasionally occupied by, or occasionally provides some of the resources used by, one or more Covered Species. Zone 3 (approximately 2,500 acres) consists of generally undeveloped open space lands that have some biological value, but provide only limited and indirect benefit to the Covered Species. Zone 4 (approximately 3,270 acres) consists of urbanized areas that do not provide any habitat value for any Covered Species. The draft Plan will identify alternatives considered by Stanford and will explain why those alternatives were not selected.

To mitigate unavoidable impacts to proposed Covered Species from Covered Activities, the mitigation program will consist mainly of preserving large areas of the highest quality habitats and managing them for the benefit of the Covered Species. To ensure that mitigation precedes impacts, Stanford will designate several large preserve areas during the planning process and apply preservation ''credits'' against land development and related impacts over the course of the Plan. Stanford will also restore habitat values in certain areas in which habitat quality has been degraded over time through a variety of land uses.

National Environmental Policy Act

NEPA (42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine if the actions may significantly affect the human environment. To assist in determining whether this project would cause significant impacts that would result in the preparation of an EIS refer to 40 CFR 1508.27 or 40 CFR 1508.2. These sections provide information on how to determine whether effects are significant under NEPA and would therefore trigger the preparation of an EIS. Under NEPA, a reasonable range of alternatives to proposed projects is developed and considered in the Services environmental review. Alternatives considered for analysis in an environmental document may include: variations in the scope of covered activities; variations in the location, amount, and type of conservation; variations in permit duration; or, a combination of these elements. In addition, the environmental document will identify potentially significant direct, indirect, and cumulative impacts on biological resources, land use, air quality, water quality, water resources, and socioeconomics, as well as other environmental issues that could occur with the implementation of the proposed actions and alternatives. For all potentially significant impacts, the environmental document will identify avoidance, minimization, and mitigation measures to reduce these impacts, where feasible, to a level below significance.

The primary purpose of the scoping process is for the public to assist the Services in developing the EA or EIS by identifying important issues and alternatives related to the proposed action. The Services propose to serve as co-lead Federal agencies under NEPA for preparation of the environmental documents. Written comments from interested parties are welcome to ensure that the full range of issues related to the permit requests is identified. All comments and materials received, including names and addresses, will become part of the administrative record and may be released to the public.

Comments and materials received will be available for public inspection, by appointment, during normal business hours at the offices listed in the **ADDRESSES** section.

The Services request that comments be specific. In particular, we request information regarding: the direct, indirect, and cumulative impacts that implementation of the proposed Plan could have on endangered and threatened and other covered species, and their communities and habitats; other possible alternatives that meet the purpose and need; potential adaptive management and/or monitoring provisions; funding issues; existing environmental conditions in the plan area; other plans or projects that might be relevant to this proposed project; and minimization and mitigation efforts.

The environmental review of this project will be conducted in accordance with the requirements of the NEPA of 1969 as amended (42 U.S.C. 4321 *et seq.*), Council on the Environmental Quality Regulations (40 CFR parts 1500–1508), other applicable Federal laws and regulations, and policies and procedures of the Services for compliance with those regulations. This notice is being furnished in accordance with 40 CFR 1501.7 of NEPA to obtain suggestions and information from other agencies and the public on the scope of issues and alternatives to be addressed in the environmental document.

Reasonable Accommodation

Persons needing reasonable accommodations in order to attend and participate in the public meeting should contact Gary Stern at 707–575–6060 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the public meeting. Information regarding this proposed action is available in alternative formats upon request.

Dated: August 31, 2006.

Paul Henson,

Acting Deputy Manager, Fish and Wildlife Service, California/Nevada Operations Office.

Dated: August 31, 2006.

Angela Somma,

Chief, Endangered Species Division, National Marine Fisheries Service, Office of Protected Resources.

[FR Doc. 06–7572 Filed 9–8–06; 8:45 am]

BILLING CODES 4310–55–S, 3510–22–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Kansas State University, Manhattan, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of Kansas State University, Manhattan, KS. The human remains were removed from McPherson and Rice Counties, KS.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Kansas State University professional staff in consultation with representatives of the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Sometime between 1928 and 1988, human remains representing a minimum of one individual were removed from site 14MP1, also known as Paint Creek site, McPherson County,

KS, by Ralph Bell, an avocational archeologist from Salina, KS, with permission of the land owner. No known individual was identified. No associated funerary objects are present.

Sometime between 1928 and 1988, human remains representing a minimum of two individuals were removed from site 14MP2, McPherson County, KS, by Mr. Bell. No known individuals were identified. No associated funerary objects are present.

Sometime between 1928 and 1988, human remains representing a minimum of one individual were removed from site 14RC8, Rice County, KS, by Mr. Bell, with permission of the land owner. No known individual was identified. No associated funerary objects are present.

The human remains from the three sites were removed on unknown dates before Mr. Bell's death in 1988. As an avocational archeologist, Mr. Bell surface collected and excavated cache pits in the Smoky Hill River drainage in northwest McPherson County and Great Bend sites along the bluffs and valley of the Little Arkansas River in northeast Rice County. Mr. Bell left his collection to his daughters, Judy Ewalt and Cathy Farr, both of Salina, KS, and they donated the Ralph Bell Collection to Kansas State University in 1989.

All three sites are reasonably believed to be single-component village sites assigned to the Great Bend aspect. Although not formally designated until 1949 (W. Wedel 1949), the Great Bend aspect has been recognized as a distinct central and south-central Kansas culture since the late 19th century (Brower 1898; Udden 1900). In 1541, Spanish conquistadors traveled in search of Quivira, the golden city. The Indian villages that Coronado encountered were described as the cities of Quivira, and the people as Quivira. Studies of the 1920s, indicate that the ''Quivira'' Indian villages were probably encountered in the Cow Creek and Little Arkansas Rivers area of Rice County (H. Jones 1928; P. Jones 1929, 1937). Other documentation describes the Quivira as Wichita people (Hodge 1899; Mooney 1899). Further evidence, both archeological and documentary of the 1940s supports Wichita affiliation with the Cow Creek and Little Arkansas Rivers sites (W. Wedel 1942).

The human remains are reasonably believed to be from either general debris scatter or trash pit context, rather than from deliberate burials. Human remains found in this matter would seem to be those of someone held in very low esteem, such as a slave or victim, and this could imply that the human remains are from individuals who were not culturally or ethnically Wichita. Historical documents suggest that the Wichita occasionally took captives from other tribes (Anderson 1999; M. Wedel 1981, 1982). However, a recent review of Ceramic period mortuary practices in the upper Kansas River basin showed that burial of human remains in domestic context (house floors or cache pits) occurred with some regularity in centuries prior to the establishment of the Great Bend aspect villages (Roper 2006:293–298). However, there is no indication of how prevalent this burial practice was, how bones of the captives were disposed of, or how old either practice of burial or capture were for the Wichita. Therefore, without evidence to the contrary, the human remains from the three sites are reasonably believed to be those of Wichita individuals. Descendants of the Wichita are members of the present-day Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Officials of Kansas State University have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of four individuals of Native American ancestry. Officials of Kansas State University also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Dr. Jacque E. Gibbons, Kansas State University, 204 Waters Hall, Manhattan, KS 66506–4003, telephone (785) 532–4976, before October 11, 2006. Repatriation of the human remains to the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma may proceed after that date if no additional claimants come forward.

Kansas State University is responsible for notifying the Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma that this notice has been published.

Dated: August 23, 2006

C. Timothy McKeown,

Acting Manager, National NAGPRA Program.

[FR Doc. E6–14929 Filed 9–8–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Kansas State University, Manhattan, KS

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of Kansas State University, Manhattan, KS. The human remains and associated funerary objects were removed from Saline County, MO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Kansas State University professional staff in consultation with representatives of the Otoe-Missouria Tribe of Indians, Oklahoma. The Osage Tribe, Oklahoma was invited to consult, but did not participate.

In 1970, human remains representing a minimum of nine individuals were removed from the Utlaut site (23SA162W), Saline County, MO, with permission from the landowner, during an excavation directed by Patricia J. O'Brien from Kansas State University. The excavation was conducted as part of the Great Plains Archaeological Field School from Kansas State University, Manhattan, KS; University of Kansas, Lawrence, KS; and University of Missouri-Columbia, Columbia, MO. The human remains were cataloged and removed and have been curated since that time at Kansas State University. No known individuals were identified. The 223 associated funerary objects are 2 chert flakes, 3 pottery vessels, 3 soil samples, 1 mussel shell, 1 chipped stone artifact, 1 retouched flake, and 212 beads and fragments.

The Utlaut site (23SA162W) is located on private land in the Missouri River bottoms near Malta Bend, MO. Archeological remains lie on and in a sand ridge in a low-lying area, which probably represents a former channel of the Missouri River. Utlaut is a multi-

component site, containing an extensive scatter of late Middle to early-Late Woodland habitation debris, an Oneota mortuary component, and some recent Euro-American historic debris. The presence of Woodland materials that are not water worn and appear to represent an in situ camp, suggests that the Missouri River abandoned the channel, represented by this sand bar, no less than 1500 years ago. The human remains and some of the associated funerary objects were removed from the Oneota component. All burials were in a line and similarly oriented, are reasonably believed to be from a single small cemetery, and are therefore of the same cultural affiliation.

The Utlaut site is nearly equidistant between Gumbo Point site (23SA4), a Late Missouri Indian village, and the Plattner site (23SA3), a Little Osage village. Gumbo Point is a Missouria Indian village with an estimated occupation of A.D. 1727–1777; Plattner is a contemporaneous Osage Indian village. Both villages are documented in the historic literature, so their cultural affiliations are known. Previously excavated burials from each site are described as extended and supine, as are most of the Utlaut site burials. Pottery found with the human remains at Gumbo Point is Missouria (Chapman 1959:63–64) and closely resembles the pottery in size, form, and decoration removed from the Utlaut site. The dates of manufacture for the pottery vessels and beads found at Utlaut are consistent with the known date of occupation of the Gumbo Point and Plattner sites. Based on associated funerary objects, burial context, geographic location, and historical records, it is reasonably believed that the Utlaut site is a Missouria mortuary site and therefore, culturally affiliated with the present-day Otoe-Missouria Tribe of Indians, Oklahoma.

Officials of Kansas State University have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of nine individuals of Native American ancestry. Officials of Kansas State University also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 223 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of Kansas State University have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Otoe-Missouria Tribe of Indians, Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Dr. Jacque E. Gibbons, Department of Sociology, Anthropology and Social Work, 204 Waters Hall, Kansas State University, Manhattan, KS 66506–4003, telephone (785) 532–4976, before October 11, 2006. Repatriation of the human remains and associated funerary objects to the Otoe-Missouria Tribe of Indians, Oklahoma may proceed after that date if no additional claimants come forward.

Kansas State University is responsible for notifying the Osage Tribe, Oklahoma and Otoe-Missouria Tribe of Indians, Oklahoma that this notice has published.

Dated: August 23, 2006

C. Timothy McKeown,

Acting Manager, National NAGPRA Program.

[FR Doc. E6–14931 Filed 9–8–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Museum of Northern Arizona, Flagstaff, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Museum of Northern Arizona, Flagstaff, AZ. The human remains and associated funerary objects were removed from Maricopa County, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the Museum of Northern Arizona professional staff in consultation with representatives of the Ak-Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pascua Yaqui Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

In 1978 and 1979, human remains representing a minimum of 83 individuals were removed from the Cashion site (NA 14690), Maricopa County, AZ, during archeological investigations conducted by the Museum of Nothern Arizona on behalf of the Arizona Nuclear Power Project. The investigations took place prior to the construction of a wastewater conveyance system to cool the Palo Verde Nuclear Generating Station. The Cashion site is a large Hohokam settlement south of the town of Cashion and north of the confluence of the Salt and Gila Rivers in central Arizona. No known individuals were identified. The 796 associated funerary objects are 325 pottery and ceramic fragments; 102 jewelry items and fragments; 1 reed mat; 121 soil, faunal bone, C–14, pollen, and wood samples; and 247 tools and implements.

Based on archeological evidence, associated funerary objects, and geographic location, the human remains are determined to be Native American. Archeological evidence indicates that the Salt River area of central Arizona was occupied approximately A.D. 700–900 by the Hohokam people, for whom cremation was a common mortuary practice. Many of the individuals removed from the Cashion site were cremations.

Archeological, historical, and oral tradition evidence indicate that there is a relationship of shared group identity between the Hohokam people and the present-day Piman and O'odham cultures, represented by the Ak-Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; and Tohono O'odham Nation of Arizona. According to oral traditions of the Hopi and Zuni, segments of the prehistoric Hohokam population migrated to areas that were occupied by Hopi and Zuni and were assimilated into the resident populations. Therefore, there is also a

relationship of shared group identity between the Hohokam and the Hopi Tribe of Arizona and Zuni Tribe of the Zuni Reservation, New Mexico.

Officials of the Museum of Northern Arizona have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 83 individuals of Native American ancestry. Officials of the Museum of Northern Arizona also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 796 objects described above are reasonably believed to have been placed with the individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Museum of Northern Arizona have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ak-Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Gloria Lomahaftewa, Museum of Northern Arizona, 3101 North Fort Valley Road, Flagstaff, AZ 86001, telephone (928) 774–5211, extension 228, before October 11, 2006. Repatriation of the human remains and associated funerary objects to the Ak-Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; or Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Museum of Northern Arizona is responsible for notifying the Ak-Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Pascua Yaqui Tribe of Arizona; Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona; Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: August 21, 2006

C. Timothy McKeown,

Acting Manager, National NAGPRA Program.

[FR Doc. E6–14932 Filed 9–8–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of Colorado Museum, Boulder, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the University of Colorado Museum, Boulder, CO. The human remains and associated funerary objects were removed from Montezuma County, CO.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains and associated funerary objects was made by University of Colorado Museum professional staff in consultation with representatives of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

Between 1954 and 1990, human remains representing a minimum of 229 individuals were removed from three sites near Yellow Jacket Pueblo (5MT1, 5MT2, and 5MT3), Montezuma County, CO, during legally conducted excavations by Dr. Joe Ben Wheat and students participating in University of Colorado Museum sponsored archeological field schools. Human remains and associated funerary objects were physically transferred to the museum at the end of each field season through 1990. No known individuals were identified. The 488 associated funerary objects are 166 ceramic vessels (whole and fragmentary), some of which have black-on-white designs, human figures, animal figures, or are gray ware; 45 lots of sherds, including 17 single sherds; 5 lots of unmodified animal bone; 45 ground stone tools and slabs, including manos, hammerstones, axes, tchamahias, and mauls; 17 bone tools, including awls, scrapers, and whistles; 16 matting fragments; 8 beads, pendants, and ornaments; 28 lots of stone cores and flakes; 1 lot of gizzard stone; 125 soil samples; 15 lots of organic material; 13 flaked stone tools, including projectile points; 1 sample of adobe material; and 3 pieces of ochre.

The three habitation sites, (identified on the National Register of Historic Places as the Joe Ben Wheat Site Complex), are at the head of Yellow Jacket Canyon to the west of Tatum Draw and southwest of the very large archeological site, Yellow Jacket Pueblo (5MT5). The Yellow Jacket burials were predominantly single interments, appearing in a wide variety of locations, including abandoned rooms and kivas, storage pits, subfloor burial pits, extramural burial pits, and middens.

The habitation sites were occupied at various times during the Basketmaker III, Pueblo II and Pueblo III periods, approximately A.D. 550–1250, with a temporary abandonment during the Pueblo I period, approximately A.D. 750–900. Based on the general continuity in the material culture and the architecture of these sites, it appears that the community that lived in this area had long-standing ties to the region and returned to sites even after migrations away from the locale that lasted more than one hundred years.

However, by the late 13th century, both the Yellow Jacket sites and the nearby Mesa Verde region showed no evidence of human habitation. The sites are not used again until the 1920s when the locale was homesteaded and farmed.

On an unknown date, probably in the 1920s or early 1930s, human remains representing a minimum of one individual were excavated from Montezuma Valley, Montezuma County, CO, most likely by Earl Morris, as a part of a University of Colorado Museum expedition. The human remains were not cataloged until they were donated to the museum by Mr. Morris's family in 1962 (Catalog number 4794). No known individual was identified. No associated funerary objects are present.

Based on osteological characteristics and excavator history, the human remains are Native American. The osteological characteristics indicate the human remains are consistent with better-documented Ancestral Puebloan remains from southwestern Colorado dating to circa A.D. 750–1300.

On an unknown date, probably in the 1920s or early 1930s, human remains representing a minimum of two individuals were excavated from a site or sites near the Yellow Jacket Pueblo ruin, Montezuma County, CO, by Earl Morris as a part of a University of Colorado Museum field expedition. The human remains were cataloged by the museum in the early 1930s (Catalog numbers 4795 and 13377). No known individuals were identified. No associated funerary objects are present.

Based on osteological characteristics and excavator history, the human remains are Native American. The osteological characteristics indicate the human remains are consistent with better-documented Ancestral Puebloan remains from southwestern Colorado dating to circa A.D. 750–1300.

Some time in the 1920s or 1930s, human remains representing a minimum of one individual were most likely removed from the area of the Yellow Jacket Pueblo (5MT5), Montezuma County, CO, by Earl Morris, and later cataloged by the museum (Catalog number 4796). No known individual was identified. No associated funerary objects are present.

Based on osteological characteristics, the human remains are Native American. The extreme wear on the teeth and other osteological characteristics are consistent with other Ancestral Puebloan human remains from southwestern Colorado dating to circa A.D. 750–1300. Museum documentation indicates the human remains date to the Pueblo III period.

In 1955, human remains representing a minimum of one individual were surface collected from site 5MT10 in Montezuma County, CO, by Dr. J.B. Wheat of the University of Colorado Museum, and cataloged into the collection (Catalog number 9279). The site is approximately four miles north of Dolores, CO, and half a mile west of the Dolores River. No known individual was identified. No associated funerary objects are present.

Based on Dr. Wheat's notes about the styles of pottery sherds and architecture, the human remains are Native American, specifically, Ancestral Puebloan dating to circa A.D. 750–900.

In 1956, human remains representing a minimum of four individuals were excavated from a site close to the house on the L.A. Simmons farm, Montezuma County, CO, by Dr. J.B. Wheat of the University of Colorado Museum. The farm is several miles west of the Yellow Jacket Pueblo ruin. The excavations were done with the landowner's permission, donated to the museum by the landowner, and cataloged into the collection (Catalog numbers 19290–19292 and 99524). No known individuals were identified. No associated funerary objects are present.

Based on the archeological context, the human remains are Native American. The human remains were found in the fill of a slab-lined room that was estimated to date to the Pueblo I period, approximately A.D. 750–900.

On an unknown date, human remains representing a minimum of one individual were excavated in the area of the Yellow Jacket Pueblo (5MT5), Montezuma County, CO, by an unknown individual. The human remains were anonymously donated to the museum in the mid–1980s and cataloged into the collection (Catalog number 39423). No known individual was identified. No associated funerary objects are present.

Osteological characteristics indicate the human remains are Native American. Based on the extreme wear on the teeth and other osteological characteristics, the human remains are reasonably believed to be Ancestral Puebloan and date to between A.D. 750 and 1300.

In 1987, human remains representing a minimum of two individuals were removed from the Yellow Jacket Pueblo (5MT5), Montezuma County, CO, by a University of Colorado Museum field school survey and cataloged into the collection (Catalog numbers 41400 and 41414). No known individuals were identified. No associated funerary objects are present.

Based on archeological context, the human remains are Native American. Based on the material culture, occupation dates, and architecture associated with the site, the human remains date to approximately A.D. 1000–1300.

In 1958, human remains representing a minimum of nine individuals were removed from Paul Wilson's farm, Montezuma County, CO, by Dr. J.B. Wheat and two graduate students from the University of Colorado Museum with permission of the landowner. Several individuals were removed from a plowed field by Mr. Wilson prior to the University of Colorado Museum's excavation. The Wilson farm is several miles southwest of the Yellow Jacket Pueblo (5MT5). A state site-number, 5MT33, was assigned to the site by Dr. Wheat, but apparently never registered with the state. The human remains were donated to the museum by the landowner and cataloged into the museum collections (Catalog numbers 44446–44446–5). No known individuals were identified. No associated funerary objects are present.

Based on the archeological context, the human remains are Native American. Based on the material culture and architecture associated with the site, the human remains date to approximately A.D. 550–1300.

On an unknown date, but probably between the 1960s and 1980s, human remains representing a minimum of one individual were excavated from one of the sites in the area of the Yellow Jacket Pueblo (5MT5), Montezuma County, CO, most likely by a University of Colorado Museum field school investigation. In 1993, the fragmentary human remains were discovered in museum storage with other human remains from the Yellow Jacket area sites. The human remains were assigned a number that suggests they came from a University of Colorado Museum field school investigation (Catalog number Field 78–22–SOC). No known individual was identified. No associated funerary objects are present.

Based on museum records, the human remains probably come from the Yellow Jacket area, but the burial location cannot be specifically placed. Based on the archeological context, the human remains are Native American and Ancestral Puebloan dating to approximately A.D. 1000–1300, the date range within the various occupations of the Yellow Jacket Pueblo.

On an unknown date, human remains representing a minimum of two

individuals were removed from a site near Yellow Jacket Pueblo (5MT5), Montezuma County, CO, by an unknown individual. In 1995, the human remains were anonymously donated and cataloged into the museum collection (Catalog numbers 1995–19–2 (1) and 1995–19–2 (2)). No known individuals were identified. No associated funerary objects are present.

Based on associated notes, the human remains are reasonably believed to be Native American. The notes suggest that the human remains were excavated from a ''prehistoric'' site close to the Yellow Jacket Pueblo site and are reasonably believed to be Ancestral Puebloan, dating to approximately A.D. 1000–1300, the date range within the various occupations of the Yellow Jacket Pueblo.

All individuals listed in this Notice of Inventory Completion are reasonably believed to be Ancestral Puebloan based on the archeological context, biological evidence, or site dating. Biological evidence, such as cranial shaping or cradleboarding and extreme tooth wear, are typical traits associated with ancestral Puebloans. Archeological evidence supports identification with Basketmaker and later Pueblo (Hisatsinom, Ancestral Puebloan, or Anasazi) cultures, which prehistorically occupied southwestern Colorado. Both Basketmaker and Pueblo occupations are represented in the archeology at the Yellow Jacket site. Archeologists have noted in the scientific literature the striking similarity between the technology and style of material culture of 13th century archeological sites in southwestern Colorado and the material culture remains of 14th century Puebloan sites in Arizona and New Mexico.

Oral-tradition evidence, which consisted of migration stories, clan histories, and origin stories, was provided by representatives of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Ysleta del Sur, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico. Folkloric evidence in the form of songs was provided by tribal representatives of the Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Nambe, New Mexico; and Pueblo of San Ildefonso New Mexico. Tribal representatives of the Pueblo of Acoma, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of San Ildefonso, New Mexico; and Pueblo of Taos, New Mexico provided linguistic evidence rooted in place names. Pueblo of Cochiti, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of San Ildefonso, New Mexico; and Pueblo of Santa Clara New Mexico provided archeological evidence based on architecture and material culture of their shared relationship.

Archeological, historical, and linguistic evidence presently point to Navajo migration to the Yellow Jacket and Monument Ruin area after A.D. 1300. During consultation, the Navajo Nation, Arizona, New Mexico, & Utah emphasized their long presence in the Four Corners and their origin in this area, but there is not a preponderance of the evidence to support Navajo cultural affiliation to the human remains described in this notice.

Based on a preponderance of evidence, a shared group identity can be traced between ancestral Puebloan peoples from Montezuma County, CO, including oral tradition, archeology, and scientific studies, and modern Puebloan groups. Modern Puebloan peoples are members of the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

Officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of at least 253 individuals of Native American ancestry. Officials of the University of Colorado Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 488 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Steve Lekson, Curator of Anthropology, University of Colorado Museum, Henderson Building, Campus Box 218, Boulder, CO 80309–0218, telephone (303) 492–6671, before October 11, 2006. Repatriation of the human remains and associated funerary objects to the Hopi Tribe of Arizona; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

University of Colorado Museum is responsible for notifying the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New

Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: August 24, 2006.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E6–14933 Filed 9–8–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of Colorado Museum, Boulder, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains in the possession of the University of Colorado Museum, Boulder, CO. The human remains were removed from San Miguel County, NM.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by University of Colorado Museum professional staff in consultation with representatives of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

In 1939, human remains representing a minimum of three individuals were removed from near Pecos Pueblo, San Miguel County, NM, by an unknown individual. The human remains were donated to the University of Colorado Museum by the Peabody Museum of Archaeology and Ethnography (Peabody Museum), Harvard University, Cambridge, MA, and cataloged into museum collections (Catalog numbers 6273–1, 6273–2, and 6274). No known individuals were identified. No associated funerary objects are present.

Based on proximity to Pecos Pueblo and analysis by the Peabody Museum, the human remains are Native American. Based on the ceramic types and architecture, Pecos Pueblo was occupied from approximately A.D. 1100–1700. Historic records document occupation at the site until approximately A.D. 1838 when the last inhabitants left the Pecos Pueblo and moved to the Pueblo of Jemez.

In 1936, an Act of Congress recognized the Pueblo of Jemez as a ''consolidation'' and ''merger'' of the Pecos Pueblo and Pueblo of Jemez. All property, rights, titles, interests, and claims of both Pueblos were consolidated under the Pueblo of Jemez. Additional evidence supporting a shared group identity between the descendants of the Pecos and Jemez pueblos emerges in numerous aspects of present-day Jemez life and are documented in a 1992–1993 study, entitled ''Pecos Ethnographic Project.'' Furthermore, during consultation, official representatives of the Pueblo of Jemez provided oral testimony supporting a shared group identity between the two pueblos. Based on archeological, historical documents, Federal legislation, consultation, and ethnographic evidence the descendants of the Pecos Pueblo are members of the Pueblo of Jemez, New Mexico.

Officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of three individuals of Native American ancestry. Officials of the University of Colorado Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and the Pueblo of Jemez, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains should contact Steve Lekson, Curator of Anthropology, University of Colorado Museum, Henderson Building, Campus Box 218, Boulder, CO 80309–0218, telephone (303) 492–6671, before October 11, 2006. Repatriation of the human remains to the Pueblo of Jemez, New Mexico may proceed after that date if no additional claimants come forward.

University of Colorado Museum is responsible for notifying the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of San Juan, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta Del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: August 23, 2006

C. Timothy McKeown,

Acting Manager, National NAGPRA Program.

[FR Doc. E6–14934 Filed 9–8–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: University of North Carolina at Chapel Hill, Research Laboratories of Archaeology, Chapel Hill, NC

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the

completion of an inventory of human remains and associated funerary objects in the control of the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology, Chapel Hill, NC. The human remains and associated funerary objects were removed from Gaston, Randolph, Rockingham, and Stokes Counties, NC, and Henry County, VA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by University of North Carolina at Chapel Hill, Research Laboratories of Archaeology professional staff in consultation with representatives of the Catawba Indian Nation; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; North Carolina Commission of Indian Affairs; Tuscarora Nation of New York; and United Keetoowah Band of Cherokee Indians in Oklahoma.

In 1938, human remains representing a minimum of two individuals were removed from the Brick Yard site (31Rd3) on Cable Creek near Asheboro, Randolph County, NC, during a salvage excavation by an archeologist from the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology. No known individuals were identified. The nine associated funerary objects are two lots of glass beads, one lot of copper fragments, one chipped stone drill, two fragmented bone tools, two chipped stone blades, and one lead ball.

Based on archeological context, the human remains have been identified as Native American. Associated artifacts and the geographic location of the human remains indicate that they belong to the Caraway phase, approximately A.D. 1450–1710, which is associated with the Keyauwee tribe, which merged with the Catawba in the 18th century. The human remains are identified as likely culturally affiliated with the present-day Catawba Indian Nation.

In 1966, human remains representing a minimum of two individuals were removed from the Hardins site (31Gs29) on the South Fork Catawba River near Hardins, Gaston County, NC, during highway salvage excavations by an archeologist from the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology. No known individuals were identified. Four associated funerary objects were retained by the landowner and the highway project supervisor. The remaining two associated funerary objects are one stone discoidal and one stone spud.

Based on archeological context, the human remains have been identified as Native American. The geographic location of the Hardins site is within the traditional territory of the Catawba; however, the associated artifacts indicate that the site was probably abandoned by A.D. 1500. Accordingly, the human remains are identified as likely culturally affiliated with the present-day Catawba Indian Nation.

In 1966 and 1967, human remains representing a minimum of 51 individuals were removed from the Madison Cemetery site (31Rk6) on the Dan River near Madison, Rockingham County, NC, during excavations by avocational archeologists. In 1983, the human remains and associated funerary objects were donated to the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology. No known individuals were identified. The 102 associated funerary objects are 36 lots of glass beads and bead fragments, 27 lots of tubular copper beads and tinklers, 10 lots of twine and sinew, 7 copper ornaments, 4 lots of sheet-copper fragments, 3 lots of shell beads, 3 fragments of split-cane matting, 3 clay pots, 2 clay pipes, 1 stone cup, 1 stone pipe, 1 stone discoidal, 1 iron tool, 1 gun sideplate, 1 iron spike, and 1 unidentifiable fragmented metal object.

Between the 1960s and 1981, human remains representing a minimum of 21 individuals were removed from Early Upper Saratown (31Sk1) on the Dan River near Walnut Cove, Stokes County, NC. Seven of the individuals were found in the late 1960s by avocational archeologists and given to the University of North Carolina at Chapel Hill in 1983. The remaining 14 individuals were removed during the course of a long-term excavation by archeologists from the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology. No known individuals were identified. The 73 associated funerary objects are 36 lots of shell beads, 17 lots of bone beads, 2 lots of glass beads, 2 lots of copper beads, 1 lot of pearl beads, 1 lot of mica disks, 1 lot of cane matting fragments, 3 shell gorgets, 3 clay pots, 3 bone awls, 1 copper ornament, 1 shell scraper, 1 clay pipe fragment, and 1 bead-making kit.

In 1964, human remains representing a minimum of three individuals were removed from the Rea No. 2 site (44Hr18) on the North Mayo River near Spencer, Henry County, VA, by members of the Patrick Henry Chapter of the Archeological Society of Virginia. In 1983, the human remains and associated funerary objects were donated to the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology. No known individuals were identified. The three associated funerary objects are two clay pots and one lot of shell bead fragments.

Based on archeological context, the human remains have been identified as Native American for the three sites described above. Associated artifacts and the geographic location of the Madison Cemetery, Early Upper Saratown, and Rea No. 2 sites indicate that the three sites belong to the Saratown phase, approximately A.D. 1450–1710. The Saratown phase is associated with the Sara tribe, which merged with the Catawba in the 18th century. Because the human remains are not from a historically identified Sara village, they are identified as likely culturally affiliated with the present-day Catawba Indian Nation.

Between 1972 and 1981, human remains representing a minimum of 105 individuals were removed from Upper Saratown (31Sk1a) on the Dan River near Walnut Cove, Stokes County, NC, during a long-term excavation by archeologists from the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology. No known individuals were identified. The 488 associated funerary objects are 305 lots of glass beads, 30 lots of copper beads, 24 lots of shell beads, 23 lots of copper bells and bell fragments, 11 lots of copper fragments, 10 lots of bark or leather fragments, 8 lots of copper ornaments and ornament fragments, 8 lots of matting fragments, 6 lots of copper rings and ring fragments, 4 lots of copper hairpipes, 2 lots of bone beads, 2 lots of glass fragments, 1 lot of wood fragments, 11 clay pipes, 6 copper gorgets, 4 clay pots, 3 animal bones, 3 iron objects, 4 shell pins, 2 cordage fragments, 2 ground stones, 2 iron knives, 2 iron scissors, 2 metal spoons, 1 soil pedestal with preserved beadwork, 1 bone pin, 1 clay dipper, 1 unidentified copper and wood object, 1 copper button, 1 iron hoe, 1 lead shot, 1 mouth harp (fragmented), 1 safety pin fragment, 1 scraper, 1 stone celt, 1 stone drill, and 1 turtle shell cup.

In 1967, human remains representing a minimum of three individuals were removed from the William Kluttz site (31Sk6), Stokes County, NC, during an

archeological reconnaissance by archeologists from the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology. The site had undergone looting and the archeological reconnaissance was conducted to assess the extent of damage at the site. No known individuals were identified. There is no evidence that the cultural items collected from the William Kluttz site were found in direct association with any of the removed human remains, but it is reasonable to believe that they are funerary objects. The six funerary objects are two lots of glass beads, one lot of shell beads, and three wire bracelets.

In 1988, human remains representing a minimum of 14 individuals were removed from the William Kluttz site (31Sk6), Stokes County, NC, during excavations by archeologists from the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology. No known individuals were identified. The 36 associated funerary objects are 9 lots of glass beads, 5 lots of shell beads, 6 lots of brass buttons, 3 lots of unidentified iron objects and fragments, 3 leather fragments, 2 lead shot, 2 iron nails, 2 iron knives, 1 wire bracelet, 1 glass fragment, 1 brass buckle and loop, and 1 flintlock pistol.

In 1988, human remains representing a minimum of one individual were removed from Lower Saratown (31Rk1), on the Dan River near Eden, Rockingham County, NC, during an excavation by archeologists from the University of North Carolina at Chapel Hill, Research Laboratories of Archaeology. No known individual was identified. The four associated funerary objects are three lots of copper beads and one lot of shell beads.

Based on archeological context, the human remains from the three sites above have been identified as Native American. Associated artifacts and the geographic location of the Upper Saratown, William Kluttz, and Lower Saratown sites indicate that the sites belong to the Saratown phase, approximately A.D. 1450–1710, and are historically documented villages of the Sara tribe, which merged with the Catawba in the 18th century. Accordingly, the human remains are identified as culturally affiliated with the present-day Catawba Indian Nation.

Officials of the University of North Carolina at Chapel Hill have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of a minimum of 202 individuals of Native American ancestry. Officials of the University of North Carolina at Chapel Hill also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 723 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of North Carolina at Chapel Hill have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Catawba Indian Nation.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Vincas P. Steponaitis, Director, Research Laboratories of Archaeology, University of North Carolina at Chapel Hill, Chapel Hill, NC 27599–3120, telephone (919) 962–3846, before October 11, 2006. Repatriation of the human remains and associated funerary objects to the Catawba Indian Nation may proceed after that date if no additional claimants come forward.

The University of North Carolina at Chapel Hill is responsible for notifying the Catawba Indian Nation; Cherokee Nation, Oklahoma; Eastern Band of Cherokee Indians of North Carolina; North Carolina Commission of Indian Affairs; Tuscarora Nation of New York; and United Keetoowah Band of Cherokee Indians in Oklahoma that this notice has been published.

Dated: August 21, 2006

C. Timothy McKeown,

Acting Manager, National NAGPRA Program.

[FR Doc. E6–14935 Filed 9–8–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from LaCrosse, Wisconsin, in the Possession of the State Historical Society of Wisconsin, Madison, WI; Correction

AGENCY: National Park Service, Interior.

ACTION: Notice; correction.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the State Historical Society of Wisconsin (also known as Wisconsin Historical Society), Burial Sites Office, Madison, WI. The human remains and cultural items were removed from LaCrosse County, WI.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

This notice corrects a previously published notice by increasing the number of human remains from 46 to 48 and the number of associated funerary objects from 38 to 39.

In the **Federal Register** of March 26, 1999, FR Doc. 99–7502 (pages 14757 and 14758), paragraph number three is corrected by substituting the following paragraph:

During 1989–1991, human remains representing a minimum of 48 individuals were recovered from the Gunderson Clinic site (47–Lc–0394) by field crews of the Mississippi Valley Archeological Center during parking lot expansion of the Gunderson Clinic, LaCrosse, WI. No known individuals were identified. The 39 associated funerary objects are 8 ceramic pots and sherds; 10 projectile points; 13 tools, including knives, scrapers, awls, and modified flakes; 3 shells; 2 copper fragments; 1 mammal bone; and 2 burned wood fragments.

Paragraph number five is corrected by substituting the following paragraph:

Officials of the Wisconsin Historical Society have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 48 individuals of Native American ancestry. Officials of the Wisconsin Historical Society also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 39 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Wisconsin Historical Society have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ho-Chunk Nation of Wisconsin and Iowa Tribe of Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and

associated funerary objects should contact Jennifer Kolb, Deputy Director, Museum Division, Wisconsin Historical Society, 816 State Street, Madison, WI 53706–1482, telephone (608) 264–2461, before October 11, 2006. Repatriation of the human remains and associated funerary objects to the Ho-Chunk Nation of Wisconsin and Iowa Tribe of Oklahoma may proceed after that date if no additional claimants come forward.

The Wisconsin Historical Society is responsible for notifying the Ho-Chunk Nation of Wisconsin and Iowa Tribe of Oklahoma that this notice has been published.

Dated: August 21, 2006

C. Timothy McKeown,

Acting Manager, National NAGPRA Program.

[FR Doc. E6–14930 Filed 9–8–06; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0051 and 1029–0120

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval to continue the collections of information under 30 CFR Part 840, Permanent Program Inspection and Enforcement Procedures, and two Technical Training Program forms for nominations and payment of travel and per diem expenses. These information collection activities were previously approved by the Office of Management and Budget (OMB), and assigned clearance numbers 1029–0051 and –0120, respectively.

DATES: Comments on the proposed information collection activities must be received by November 13, 2006, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202–SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov*.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783 or by e-mail.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities [see 5 CFR 1320.8(d)]. This notice identifies information collections that OSM will be submitting to OMB for renewed approval. These collections are contained in (1) 30 CFR Part 840, Permanent Program Inspection and Enforcement Procedures (1029–0051); and (2) OSM's Technical Training Program Non-Federal Nomination Form, and Request for Payment of Travel and Per Diem Form (1029–0120). OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of informatio for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates;(3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information . A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

The following information is provided for each information collection: (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Permanent Program Inspection and Enforcement Procedures, 30 CFR Part 840.

OMB Control Number: 1029–0051.

Abstract: This provision requires the regulatory authority to conduct periodic inspections of coal mining activities, and prepare and maintain inspection reports for public review. This information is necessary to meet the requirements of the Surface Mining Control and Reclamation Act of 1977 and its public participation provisions. Public review assures the public that the State is meeting the requirements for the Act and approved State regulatory program.

Bureau Form Number: None.

Frequency of Collection: Once, monthly, quarterly, and annually.

Description of Respondents: State Regualtory Authorities.

Total Annual Responses: 790,486.

Total Annual Burden Hours: 519,572.

Title: Technical Training Program Non-Federal Nomination Form and Request for Payment of Travel and Per Diem Form.

OMB Control Number: 1029–0120.

Summary: The information is used to identify and evaluate the training courses requested by students to enhance their job performance, to calculate the number of classes and instructors needed to complete OSM's technical training mission, and to estimate costs to the training program.

Bureau Form Numbers: OSM 105, OSM 140.

Frequency of Collection: Once.

Description of Respondents: State and Tribal regulatory and reclamation employees and industry personnel.

Total Annual Responses: 1,800.

Total Annual Burden Hours: 150 hours.

Dated: September 5, 2006.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. 06–7561 Filed 9–8–06; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection for 1029–0115, 1029–0116, and 1029–0117

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collections of information for 30 CFR parts 773, 774, and 778.

DATES: Comments on the proposed information collection must be received by November 13, 2006, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave., NW., Room 202—SIB, Washington, DC 20240. Comments may also be submitted electronically to *jtrelease@osmre.gov.*

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783 or at the e-mail address listed above.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR part 773 (Requirements for permits and permit processing), part 774 (Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights), and part 778 (Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information).

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden of respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will be included in the OSM's submissions of the information collection requests to OMB.

The following information is provided for each information collection; (1) Title of the information collection; (2) OMB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Requirements for Permits and Permit Processing, 30 CFR 773.

OMB Control Number: 1029–0115.

Summary: The collection activities for this part ensure that the public has the opportunity of review permit applications period to their approval, and that applicants for permanent program permits or their associates who are in violation of the Surface Mining Control and Reclamation Act do not receive surface coal mining permits pending resolution of their violations.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Applicants for surface coal mining and reclamation permits and State governments and Indian Tribes.

Total Annual Respondents: 4,434.

Total Annual Burden Hours: 34,650.

Title: Revisions; Renewals; and Transfer, Assignment, or Sale of Permit Rights—30 CFR 774.

OMB Control Number: 1029–0116.

Summary: Sections 506 and 511 of Public Law 95–87 provide that persons seeking permit revisions, renewals, transfer, assignment, or sale of their permit rights for coal mining activities submit relevant information to the regulatory authority to allow the regulatory authority to determine whether the applicant meets the requirements for the action anticipated.

Bureau Form Number: None.

Frequency of Collection: On occasion.

Description of Respondents: Surface coal mining permit applicants and State regulatory authorities.

Total Annual Responses: 7,989.

Total Annual Burden Hours: 63,905.

Title: Permit Applications—Minimum Requirements for Legal, Financial, Compliance, and Related Information—30 CFR 778.

OMB Control Number: 1029–0117.

Summary: Section 507(b) of Public Law 95–87 provides that persons conducting coal mining activities submit to the regulatory authority all relevant information regarding ownership and control of the property affected, their compliance status and history. This information is used to insure all legal, financial and compliance requirements are satisfied prior to issuance or denial of a permit.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: Surface coal mining permit applicants and State regulatory authorities.

Total Annual Responses: 3,085.

Total Annual Burden Hours: 7,974.

Dated: September 5, 2006.

John R. Craynon,

Chief, Division of Regulatory Support.

[FR Doc. 06–7562 Filed 9–8–06; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Partial Consent Decree Under the Clean Water Act

Notice is hereby given that on August 15, 2006, a proposed Second Partial Consent Decree in *United States* v. *City of San Diego*, Civil Action No. 03–CV–1349K (POR), was lodged with the United States District Court for the Southern District of California. The United States' action is consolidated with *San Diego Baykeeper, et al.* v. *City of San Diego*, Civil Action No. 01–CV–0550B (POR), and *State of California* v. *City of San Diego*, Civil Action No. 03–CV–1381J (POR).

In this action the United States seeks penalties and injunctive relief to address sanitary sewer overflows and other violations of the Clean Water Act (''Act'') and the City of San Diego's National Pollutant Discharge Elimination System Permit.

Under this Second Partial Consent Decree, the City will, among other requirements: (1) Inspect, rehabilitate, and replace portions of the sewer system; (2) control root problems; (3) clean a specified amount of sewer pipe; (4) implement a grease blockage control program; and (5) perform analyses of canyon-based sewer lines.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Second Partial Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *City of San Diego*, Civil Action No. 03–CV–1349K (POR), D.J. Ref. 90–5–1–1–4364/1.

The Second Partial Consent Decree may be examined at U.S. EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. During the public comment period, the Second Partial Consent Decree may also be examined on the following Department of Justice Web site at *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Second Partial Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $13.75 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Henry Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 06–7531 Filed 9–8–06; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[OMB Number 1140–0003]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Report of multiple sale or other disposition of pistols and revolvers.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 71, Number 137, pages 40734–40735 on July 18, 2006, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 11, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. *Your comments should address one or more of the following four points:*

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Report of Multiple Sale or Other Disposition of Pistols and Revolvers.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 3310.4. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Business or other for-profit. *Other:* Federal Government, State, Local, or Tribal Government. *Abstract:* The form is used by licensees to report all transactions in which an unlicensed person has acquired two or more pistols and/or revolvers at one time or during five consecutive business days.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 10,000 respondents, who will complete the form within approximately 12 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 8,000 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 5, 2006.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6–14925 Filed 9–8–06; 8:45 am]

BILLING CODE 4810–FY–P

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms and Explosives

[OMB Number 1140–0064]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day notice of information collection under review: Application for restoration of explosives privileges.

The Department of Justice (DOJ), Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 71, Number 129, page 38423 on July 6, 2006, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 11, 2006. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. *Your comments should address one or more of the following four points:*

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to

respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Application For Restoration of Explosives Privileges.

(3) *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection:* Form Number: ATF F 5400.29. Bureau of Alcohol, Tobacco, Firearms and Explosives.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individual or households. *Other:* Business or other for-profit. *Abstract:* ATF F 5400.29 is required in order to determine whether or not explosives privileges may be restored. The form is used to conduct an investigation to establish if it is likely that the applicant will act in a manner dangerous to pubic safety or contrary to public interest.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There will be an estimated 500 respondents, who will complete the form within approximately 30 minutes.

(6) *An estimate of the total burden (in hours) associated with the collection:* There are an estimated 250 total burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 5, 2006.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E6–14926 Filed 9–8–06; 8:45 am]

BILLING CODE 4810–FY–P

DEPARTMENT OF JUSTICE

Office of Justice Programs; National Institute of Justice

[OMB Number 1121–NEW]

Agency Information Collection Activities; Proposed Collection; Comment Requested

ACTION: 60-Day emergency notice of information collection under review: New collection evaluation of impacts of Federal casework programs.

The Department of Justice, Office of Justice Programs, National Institute of Justice (NIJ) has submitted the following new information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by September 15, 2006. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information and Regulation Affairs, Attention: Department of Justice Desk Officer (202) 395–6466, Washington, DC 20503. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments, especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Kathy Browning, Office of Justice Programs, National Institute of Justice, (202) 616–4786.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agencies' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g. permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* New collection.

(2) *Title of the Form/Collection:* Evaluation of Impact of Federal Casework Programs—Prosecutor Survey; Law Enforcement Survey; *Lab Personnel Survey; *There are three versions of the lab survey, each tailored to the respective type of lab.

(3) Not Applicable.

(4) *Affected public who will be asked or required to respond are:* Prosecutors, Law Enforcement Officials, and Forensic Laboratory personnel from agencies within the jurisdiction represented by the grantees.

The National Institute of Justice uses this information to assess the impacts and cost-effectiveness of the Forensic Casework DNA Backlog Programs over time and to diagnose performance problems in current casework programs. This evaluation will help decision makers be better informed to not only diagnose program performance problems, but also to better understand whether the benefits of DNA collection and testing is in fact an effective public safety and crime control practice.

(5) *An estimate of the total number of respondents and the amount of time needed for an average respondent to respond is broken down as follows:*

Law Enforcement—200 respondents, average burden time 120 minutes—400 hours total.

Prosecutors—200 respondents, average burden time 90 minutes—300 hours total.

Lab personnel—135 respondents average burden 120 minutes—270 hours total.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated total public burden associated with this collection is 970 hours.

If additional information is required, contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 5, 2006.

Lynn Bryant,

Department Clearance Officer, Department of Justice.

[FR Doc. E6–14927 Filed 9–8–06; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Generic Solicitation for Training Grant Applications

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506 (c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (''MSHA'' or the ''Agency'') is soliciting comments concerning the request for a new information collection related to the establish of a program to award competitive grants for education and training, to be know as the Brookwood-Sago Mine Safety Grants.

DATES: Submit comments on or before November 13, 2006.

ADDRESSES: Send comments to U.S. Department of Labor, Mine Safety and Health Administration, John Rowlett, Director, Management Services Division, 1100 Wilson Boulevard, Room 2134, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on a computer disk, or via Internet E-mail to *Rowlett.John@dol.gov*, along with an original printed copy. Mr. Rowlett can be reached at (202) 693–9827 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Section 14(a) of United States Public Law PL 109–236, the Mine Improvement and New Emergency Response Act of 2006 (Miner Act) Brookwood-Sago Mine Safety Grants authorizes the Secretary of Labor to establish a program to award competitive grants for education and training, to be known as Brookwood-Sago Mine Safety Grants. To carry out the purposes of this section, The Mine Safety and Health Administration will conduct directly, or through competitive grants, education and training. These courses must ensure an adequate number of qualified personnel to fulfill the purposes of the Act, provide employers and miners with short-term training, inform them of the importance and proper use of safety and health equipment, and train employers and employees to recognize, avoid, and prevent unsafe and unhealthful working conditions in and around mines.

After awarding a training grant, MSHA will use the work plan and budget information provided in the application to monitor the organization's progress in meeting training goals and objectives, as well as planned renewals at one-year intervals. An organization must submit separate applications for the initial award and for each renewal award.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov*) and then choosing ''Statutory and Regulatory Information'' and ''**Federal Register** Documents.''

III. Current Actions

The Agency awards grants to public or private not-for-profit entities to provide part of the required training. To obtain such as grant, an organization must complete the training grant application. MSHA uses the information in this application to evaluate the organization's competence to provide the proposed training (including the qualifications of the personnel who manage and implement the training); the goals and objectives of the proposed training program; a workplan that describes in detail the tasks that the organization will implement to meet these goals and objectives; the appropriateness of the proposed costs; and compliance with Federal regulations governing nonprocurement debarment and suspension, maintaining a drug-free workplace, and lobbying activities. Also required is a program summary that Agency officials use to review and evaluate the highlights of the overall proposal.

Type of Review: New Collection.

Agency: Mine Safety and Health Administration.

Title: Generic Training Grant Applications.

OMB Number: 1219–NEW.

Frequency: Annually.

Affected Public: Public or Private Not-for-profit Entities.

Respondents: 100.

Average Time Per Respondent: 25 hour.

Total Burden Hours: 2,500 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 31st day of August, 2006.

David Meyer,

Director, Office of Administration and Management.

[FR Doc. E6–14910 Filed 9–8–06; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Mine Rescue Teams; Arrangements for Emergency Medical Assistance; and Arrangements for Transportation for Injured Persons

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce

paperwork and respondent burden conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the extension of the information collection related to the 30 CFR Sections 49.2 through 49.4, 49.6 through 49.9, 75.1713–1, and 77.1702; Mine Rescue Teams; Arrangements for Emergency Medical Assistance; and Arrangements for Transportation for Injured Persons.

DATES: Submit comments on or before November 13, 2006.

ADDRESSES: Send comments to U.S. Department of Labor, Mine Safety and Health Administration, John Rowlett, Director, Management Services Division, 1100 Wilson Boulevard, Room 2134, Arlington, VA 22209–3939. Commenters are encouraged to send their comments on a computer disk, or via E-mail to *Rowlett.John@dol.gov*, along with an original printed copy. Mr. Rowlett can be reached at (202) 693–9827 (voice), or (202) 693–9801 (facsimile).

FOR FURTHER INFORMATION CONTACT: Contact the employee listed in the **ADDRESSES** section of this notice.

SUPPLEMENTARY INFORMATION:

I. Background

Section 115(e) of the Federal Mine Safety and Health Act of 1977 (Mine Act) required the Secretary of Labor (Secretary) to publish proposed regulations which provide that mine rescue teams be available for rescue and recovery work to each underground mine in the event of an emergency. In addition, the costs of making advance arrangements for such teams are to be borne by the operator of each such mine.

Congress considered the ready availability of mine rescue in the event of an accident to be vital protection for miners. Congress was concerned that too often in the past, rescue efforts at a disaster site have had to await the delayed arrival of skilled mine rescue teams. In responding to Congressional concerns, the Mine Safety and Health Administration (MSHA) promulgated 30 CFR Part 49, Mine Rescue Teams. The regulations set standards related to the availability of mine rescue teams; alternate mine rescue capability for small and remote mines and mines with special mining conditions; inspection and maintenance records of mine rescue equipment and apparatus; physical requirements for mine rescue team members and alternates; and experience and training requirements for team members and alternates.

II. Desired Focus of Comments

MSHA is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice, or viewed on the Internet by accessing the MSHA home page (*http://www.msha.gov*) and then choosing ''Statutory and Regulatory Information'' and ''Federal Register Documents.''

III. Current Actions

Under 30 CFR 49, Mine Rescue Teams, the regulations set standards related to the availability of mine rescue teams; alternate mine rescue capability for small and remote mines and mines with special mining conditions; inspection and maintenance records of mine rescue equipment and apparatus; physical requirements for mine rescue team members and alternates; and experience and training requirements for team members and alternates. Parts 75 and 77 requires that coal mine operators make arrangements with a licensed physician, medical service, medical clinic, or hospital and with an ambulance service to provide 24-hour emergency medical assistance and transportation. That information is to be posted at the mine.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Mine Rescue Teams; Arrangements for Emergency Medical Assistance; and Arrangements for Transportation for Injured Persons.

OMB Number: 1219–0078.

Recordkeeping: § 49.6 states that rescue apparatus and equipment shall be maintained and that a person trained in the use and care of breathing apparatus shall inspect and test the apparatus at lease every 30 days and shall certify by signature and date that the inspections and tests were done. The certification and the record of corrective action taken, if any, shall be maintained at the mine rescue station for a period of one year. § 49.7 requires that each team member and alternate be examined within 60 days of the beginning of the initial training, and annually thereafter by a physician who shall certify the physical fitness of the team member to perform mine rescue and recovery work for prolonged periods under strenuous conditions. The operator shall have MSHA Form 5000–3 on file for each team member. These forms shall be kept on file at either the mine or the mine rescue station for a period of one year. § 49.8 requires that prior to serving on a mine rescue team, each member must complete an initial 20-hour course of instruction and all team members are required to receive 40 hours of refresher training annually. A record of the training received by each mine rescue team member is required to be on file at the mine rescue station for a period of one year.

Frequency: On Occasion.

Affected Public: Business or other for-profit.

Respondents: 1,072.

Responses: 45,270.

Burden Hours: 24,366.

Total Burden Cost: $648K.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated at Arlington, Virginia, this 31st day of August, 2006.

David L. Meyer,

Director, Office of Administration and Management.

[FR Doc. E6–14915 Filed 9–8–06; 8:45 am]

BILLING CODE 4510–43–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences, Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences (1755).

Dates: October 4–6, 2006.

Time: 9 a.m.–5:30 p.m. Wednesday and Thursday, October 4 and 5, 2006. 9 a.m.–12 noon. Friday, October 6, 2006.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 375, Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. Thomas Spence, Directorate for Geosciences, National Science Foundation, Suite 705, 4201 Wilson Boulevard, Arlington, Virginia 22230, Phone 703–292–8500.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for research, education, and human resources development in the geosciences.

Agenda:

Day 1: Directorate Activities; Subcommittee Meetings.

Day 2: Subcommittee Meeting and Reports; Directorate Activities.

Day 3: Plans and Activities.

Dated: September 5, 2006.

Susanne Bolton,

Committee Management Officer.

[FR Doc. 06–7567 Filed 9–8–06; 8:45 am]

BILLING CODE 7555–02–M

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. *Type of submission, new, revision, or extension:* Extension.

2. *The title of the information collection:* NRC Form 531 ''Request for Taxpayer Identification Number''.

3. *The form number if applicable:* NRC Form 531.

4. *How often the collection is required:* One time from each applicant or individual to enable the Department of the Treasury to process electronic payments or collect debts owed to the Government.

5. *Who will be required or asked to report:* All individuals doing business with the U.S. Nuclear Regulatory Commission, including contractors and recipients of credit, licenses, permits, and benefits.

6. *An estimate of the number of annual responses:* 300.

7. *The estimated number of annual respondents:* 300.

8. *An estimate of the total number of hours needed annually to complete the requirement or request:* 25 hours (5 minutes per respondent).

9. *An indication of whether Section 3507(d), Pub. L. 104–13 applies:* N/A.

10. *Abstract:* The Debt Collection Improvement Act of 1996 requires that agencies collect taxpayer identification numbers (TINs) from individuals who do business with the Government, including contractors and recipients of credit, licenses, permits, and benefits. The TIN will be used to process all electronic payments (refunds) made to licensees by electronic funds transfer by the Department of the Treasury. The Department of the Treasury will use the TIN to determine whether the refund can be used to administratively offset any delinquent debts reported to the Treasury by other government agencies. In addition, the TIN will be used to collect and report to the Department of the Treasury any delinquent indebtedness arising out of the licensee's or applicant's relationship with the NRC.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, One White Flint North, 11555 Rockville Pike, Room O–1 F21, Rockville, MD 20852. OMB clearance requests are available at the NRC worldwide Web site: *http://www.nrc.gov/public-involve/doc-comment/omb/index.html.* The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by October 11, 2006. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

John A. Asalone, Office of Information and Regulatory Affairs (3150–0188), NEOB–10202, Office of Management and Budget, Washington, DC 20503.

Comments can also be e-mailed to *John_A._Asalone@omb.eop.gov* or submitted by telephone at (202) 395–4650.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 1st day of September, 2006.

For the Nuclear Regulatory Commission.

Brenda Jo. Shelton,

NRC Clearance Officer, Office of Information Services.

[FR Doc. E6–14937 Filed 9–8–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–346]

Firstenergy Nuclear Operating Company and Firstenergy Nuclear Generation Corp.; Notice of Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (NRC or the Commission) has granted the request of FirstEnergy Nuclear Operating Company and FirstEnergy Nuclear Generation Corp. (the licensee) to withdraw its July 27, 2005, application for proposed amendment to Facility Operating License No. NPF–3 for the Davis-Besse Nuclear Power Station, Unit 1, located in Ottawa County.

The proposed amendment would have revised Technical Specification (TS) 3/4.8.1.1, ''A.C. Sources—Operating,'' to adopt a more recent standard for diesel fuel oil testing, and allow TS Surveillance Requirements (SRs) 4.8.1.1.2.d.1 and 4.8.1.1.2.d.3 to be performed on-line.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 27, 2005 (70 FR 56501). However, by letter dated August 9, 2006, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated July 27, 2005, and the licensee's letters dated May 30 and August 9, 2006, which withdrew the application for license amendment. Documents may be examined, and/or copied for a fee, at the NRC's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland. Publicly available

records will be accessible electronically from the Agencywide Documents Access and Management Systems (ADAMS) Public Electronic Reading Room on the internet at the NRC Web site, *http://www.nrc.gov/reading-rm.html.* Persons who do not have access to ADAMS or who encounter problems in accessing the documents located in ADAMS should contact the NRC PDR Reference staff by telephone at 1–800–397–4209, or 301–415–4737 or by e-mail to *pdr@nrc.gov.*

Dated at Rockville, Maryland, this 1st day of September 2006.

For the Nuclear Regulatory Commission.

Stephen J. Campbell,

Project Manager, Plant Licensing Branch III–2, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. E6–14936 Filed 9–8–06; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 27e–1 and Form N–27E–1; SEC File No. 270–486; OMB Control No. 3235–0545.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Section 27(e) of the Investment Company Act of 1940 (''Act'') (15 U.S.C. 80a–27(e)) provides that a registered investment company issuing a periodic payment plan certificate, or any depositor or underwriter for such company, must notify in writing ''each certificate holder who has missed three payments or more, within thirty days following the expiration of fifteen months after the issuance of the certificate, or, if any such holder has missed one payment or more after such period of fifteen months but prior to the expiration of eighteen months after the issuance of the certificate, at any time prior to the expiration of such eighteen month period, of his right to surrender his certificate * * * and inform the certificate holder of (A) the value of the holder's account * * *, and (B) the amount to which he is entitled * * *.''

Section 27(e) authorizes the Commission to ''make rules specifying the method, form, and contents of the notice required by this subsection.'' Rule 27e–1 (17 CFR 270.27e–1) under the Act, entitled ''Requirements for Notice to Be Mailed to Certain Purchasers of Periodic Payment Plan Certificates Sold Subject to Section 27(d) of the Act,'' provides instructions for the delivery of the notice required by section 27(e).

Rule 27e–1(f) prescribes Form N–27E–1 (17 CFR 274.127e–1), which sets forth the language the issuing registered investment company or its depositor or underwriter must use ''to inform certificate holders of their right to surrender their certificates pursuant to Section 27(d).'' The instructions to the form require that a notice containing the language on the form be sent to certificate holders on the sender's letterhead. The issuer is not required to file with the Commission a copy of the Form N–27E–1 notice.

The Form N–27E–1 notice to certificate holders who have missed certain payments is intended to encourage certificate holders, in light of the potential for further missed payments, to weigh the anticipated costs and benefits associated with continuing to hold their certificates. The disclosure assists certificate holders in making careful and fully informed decisions about whether to continue investing in periodic payment plan certificates.

The frequency with which each of these issuers or their representatives must file the Form N–27E–1 notice varies with the number of periodic payment plans sold and the number of certificate holders who miss payments. The staff spoke with representatives of a number of firms in the industry that currently have periodic payment plan accounts. Based upon these conversations, the staff estimates that 3 respondents send out an aggregate of approximately 5054 notices per year through completely automated processes. The staff further estimates that all the issuers that send Form N–27E–1 notices use outside contractors to print and distribute the notice, and incur no hourly burden. The estimate of annual burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Complying with the collection of information requirements of rule 27e–1 is mandatory for issuers of periodic payment plans or their depositors or underwriters in the event holders of plan certificates miss certain payments within eighteen months after issuance. The information provided pursuant to rule 27e–1 will be provided to third parties and, therefore, will not be kept confidential. The Commission is seeking OMB approval, because an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

General comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503 or by e-mail to: *David_Rostker@omb.eop.gov;* and (ii) R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312, or by e-mail to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days after this notice.

Dated: September 1, 2006.

Nancy M. Morris,

Secretary.

[FR Doc. E6–14948 Filed 9–8–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54401; File No. SR–ISE–2006–53]

Self-Regulatory Organizations; International Securities Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Relating To Doing Business With the Public

September 1, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 31, 2006, the International Securities Exchange, Inc. (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared by the ISE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons and is

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 240.19b–4.

approving the proposal on an accelerated basis.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The ISE is proposing to adopt a rule with respect to members doing business with the public on the ISE, in anticipation of the Exchange's entry into the trading of non-option equity securities. Below is the text of the proposed rule change. Proposed new language is in italics.

* * * * *

Rule 2106. Doing Business With the Public

An Equity EAM that does business with the public must also be a member of the NASD.

* * * * *

II. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item III below. The ISE has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Currently, the ISE only trades options on equity securities and indices. The purpose of this proposed rule change is to adopt a rule that incorporates provisions related to non-option equity securities to reflect ISE's intention to begin trading non-option equity securities. Specifically, the ISE will require ISE Electronic Access Members (''EAMs'') trading equity securities on the ISE (''Equity EAMs'') who do business with the public to also be members of the NASD. As such those ISE members would be required to comply with NASD rules that govern the practices of members when doing business with the public. Among other things, these members would be obligated:

- To make suitable recommendations to customers when recommending the purchase, sale or exchange of any security; [3]
- To be aware of possible application of SEC Rule 15g–1 through 15g–9 when a transaction involves a non-exchange listed equity security trading for less than five dollars per share; [4]
- To deal fairly with customers and others; [5]
- To use reasonable diligence to ascertain the best inter-dealer market for the subject security and buy or sell in such market so that the resultant price to the customer is as favorable as possible under prevailing market conditions; [6]
- To segregate and identify by customers both fully paid and ''excess margin'' securities; [7]
- To make proper use of a customer's securities or funds; [8]
- To send a statement of account, no less than once every calendar year, containing a description of any securities position, money balances, or account activity to each customer whose account had a security position, money balance, or account activity during the period since the last such statement was sent to the customer; [9]
- To provide customers with a margin disclosure statement prior to or at the time of opening a margin account; [10]
- To comply with the provisions of NASD Rule 2350 if the member accepts deposits on the premises of a financial institution; [11]
- To provide a risk disclosure statement set forth in NASD Rule 2361 prior to opening a day-trading account for a customer; [12] and
- To not borrow from, or lend money to, a customer unless the member complies with the provisions of NASD Rule 2370.[13]

2. Statutory Basis

The proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a national securities exchange, and in particular, with the requirements of Section 6(b)(5) [14] of the Act. Section 6(b)(5) requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and in general, to protect investors and the public interest. Specifically, ISE believes the proposed rule change will promote just and equitable principles of trade and protect investors and the public interest by utilizing rules applicable to NASD members to provide safeguards for public investors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an E-mail to *rule-comments@sec.gov.* Please include File No. SR–ISE–2006–53 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2006–53. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

[3] *See* NASD Rules 2310, IM–2310–3 and 2315.
[4] *See* NASD Rule IM–2310–1.
[5] *See* NASD Rule IM–2310–2.
[6] *See* NASD Rule 2320.
[7] *See* NASD Rule IM–2330.
[8] *See* NASD Rule 2330.
[9] *See* NASD Rule 2340.
[10] *See* NASD Rule 2341.
[11] *See* NASD Rule 2350.
[12] *See* NASD Rules 2360 and 2361.
[13] *See* NASD Rule 2370.
[14] 5 U.S.C. 78f(b)(5).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2006–53 and should be submitted on or before October 2, 2006.

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder, applicable to a national securities exchange.[15] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act [16] in that it promotes just and equitable principles of trade and protects investors and the public interest by requiring Equity EAMs that do business with the public to become NASD members. As NASD members those broker-dealers would be subject to a set of rules designed to protect investors.[17]

ISE has requested accelerated effectiveness of the proposed rule change. ISE has also indicated that it believes most EAMs that do business with the public are already NASD members and all Equity EAMs that do business with the public are NASD members.[18] After careful consideration, the Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[19] for approving the proposed rule change prior to the thirtieth day after the date of publication of notice in the **Federal Register**. The Commission notes ISE must have rules concerning doing business with the public in place prior to ISE commencing trading in non-option equity securities. Moreover, because most EAMs are already NASD members, the proposal would not impose additional requirements on the majority of ISE members. Therefore, granting accelerated approval would facilitate ISE's ability to trade equity securities in a timely manner. Accordingly, the Commission finds that there is good cause, consistent with Section 6(b)(5) of the Act,[20] to approve the proposal on an accelerated basis.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[21] that the proposed rule change (SR–ISE–2006–53) is hereby approved on an accelerated basis.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[22]

Nancy M. Morris,

Secretary.

[FR Doc. E6–14947 Filed 9–8–06; 8:45 am]

BILLING CODE 8010–01–P

[15] In approving this proposal, the Commission has considered its impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78f(b)(5).

[17] *See, e.g.*, NASD Rules 2310, 2315, 2320. 2330, 2340, 2341, 2350, 2360, 2361, and 2370, as well as IM–2310 and IM–2330.

[18] Telephone call between Laura Clare, Assistant General Counsel, ISE, and Haimera Workie, Special Counsel, Office of Chief Counsel, Division of Market Regulation, SEC, on August 31, 2006.

[19] 15 U.S.C. 78s(b)(2).

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78s(b)(2).

[22] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages that may be included in this notice are for new information collections, approval of existing information collections, revisions to OMB-approved information collections, and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and on ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. *The information can be mailed and/or faxed to the individuals at the addresses and fax numbers listed below:* (OMB) Office of Management and Budget, Attn: Desk Officer for SSA, fax: 202–395–6974; (SSA) Social Security Administration, DCFAM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, fax: 410–965–6400.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

Blood Donor Locator Service (BDLS)—20 CFR 401.200—0960–0501. This regulation requires requesting State agencies to provide the names and Social Security Numbers of blood donors, and a statement that the donor's blood tested positive for Human Immunodeficiency Virus (HIV) to SSA's Blood Donor Locator Service when blood donor facilities have identified donors as testing positive for HIV. This information is used by SSA to furnish the State agencies with the blood donors' address information for the purpose of notifying them. Respondents are State agencies acting on behalf of blood donor facilities.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 10.

Frequency of Response: 5.

Number of Responses: 50.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 13 hours.

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. *Authorization for the Social Security Administration to Obtain Account Records From a Financial Institution and Request for Records—20 CFR 416.200, 416.203—0960–0293.* The SSA–4641–U2 provides financial institutions with the applicant, recipient, or deemor's authorization to disclose records. Responses to the questions are used, in part, to determine whether the resources requirements are met in the Supplemental Security Income (SSI) program. The respondents

are financial institutions used by SSI applicants, recipients and/or deemors.

Type of Request: Revision of an OMB-approved information collection.

Number of Respondents: 500,000.

Frequency of Response: 1.

Average Burden Per Response: 6 minutes.

Estimated Annual Burden: 50,000 hours.

2. *You Can Make Your Payment By Credit Card—0960–0462.* The SSA–4588 and SSA–4589 are used by SSA to update an individual's record to reflect that a payment has been made on their overpayment and to effectuate payment through the appropriate credit card company. The SSA–4588 is sent to overpaid individuals with an initial notice of overpayment, and the SSA–4589 is sent to overpaid individuals who have been previously notified of their debt. The SSA–4588 is sent out only once to the debtor, with the official first notice of overpayment; while the SSA–4589 is sent on a monthly basis until the debt is repaid. Respondents are Title II beneficiaries and Title XVI recipients who have outstanding overpayments.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 60,000.

Frequency of Response: 1.

Average Burden Per Response: 5 minutes.

Estimated Annual Burden: 5,000 hours.

3. *Privacy and Disclosure of Official Records and Information; Availability of Information and Records to the Public—20 CFR 401.40(b)&(c), 401.55(b), 401.100(a), 402.130, 402.185—0960–0566.* The Privacy Act of 1974 (5 U.S.C. 552a) authorizes SSA to collect certain information for access to and amendment or correction of records. The information collected is used by SSA to: (1) Identify individuals who request access to their records; (2) designate an individual to receive and review their medical records; (3) amend or correct records; (4) obtain consent from an individual to release his/her records to others (consent is submitted by letter in writing or by use of the SSA–3288, or other consent form). The Freedom of Information Act authorizes SSA to collect information needed to facilitate the release of information from SSA records. Respondents are individuals or businesses requesting access to, correction of, or disclosure of SSA records.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 3,028,500.

Estimated Annual Burden: 159,133 hours.

Type of request	Number of respondents	Frequency of response	Average burden per response	Estimated annual burden (hours)
Access to Records	10,000	1	[1]11	1,833
Designating a Representative for Disclosure of Records	3,000	1	[2]2	6,000
Amendment of Records	100	1	10	17
Consent of Release of Records	3,000,000	1	[1]3	150,000
FOIA Requests for Records	15,000	1	[1]5	1,250
Waiver/Reduction of Fees	400	1	[2]5	33
Totals	3,028,500			159,133

[1] Minutes.
[2] Hours.

4. *Medical Consultant's Review of Psychiatric Review Technique Form—20 CFR 404.1520a, 404.1640, 404.1643, 404.1645, 416.920a—0960–0677.* SSA measures the performance of the State Disability Determination Services (DDS) in the area of quality of documentation and determinations on claims. In mental claims, a Psychiatric Review Technique Form (PRTF) is completed by DDS. The SSA–3023 is only completed when an adjudicating component's PRTF is in the file. An SSA–3023 is required for each completed PRTF and is used by the regional review component to facilitate SSA's medical/psychological consultants' review of the PRTF for quality purposes. The respondents are medical/psychological consultants who review the Psychiatric Review Technique Form for quality purposes.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 344.

Frequency of Response: 194.

Total Annual Responses: 66,736.

Average Burden Per Response: 12 minutes.

Estimated Annual Burden: 13,347 hours.

5. *Continuing Education Information Collection under Non-Attorney Demonstration Project—0960–NEW.* Section 303 of the Social Security Protection Act of 2004 (SSPA) provides for a 5-year demonstration project to be conducted by SSA under which the direct payment of SSA approved fees is extended to certain non-attorney claimant representatives. Under the SSPA, to be eligible for direct payment of fees, a non-attorney representative must fulfill a series of statutory requirements. One of the steps is to demonstrate completion of relevant continuing education courses. Through the services of a private contractor, SSA must collect the requested information to determine if a non-attorney representative has met this statutory requirement to be eligible for direct payment of fees for his or her claimant representation services. The information collection is needed to comply with the legislation. The respondents are non-attorney representatives who apply for direct payment of fees.

Type of Request: Collection in use without OMB number.

Number of Respondents: 300.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 150 hours.

Dated: September 5, 2006.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E6–14900 Filed 9–8–06; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Muskegon County Airport, Muskegon, MI

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to change a portion of the airport from aeronautical use to non-

aeronautical use and to authorize the sale of the airport property. The vacant parcel is 33′ by 960′ (approximately 0.73 acres) lies on the south side of Porter Road between Martin and Henry Streets in Norton Shores, Michigan. The land was acquired under FAA Project No. 9–20–0071–01. There are no impacts to the airport by allowing the airport to dispose of the property. Since the purchase of this parcel, the parcel has sat vacant. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the subject airport property nor a determination of eligibility for grant-in-aid funding from the FAA. The disposition of proceeds from the disposal of the airport property will be in accordance with FAA's Policy and Procedures Concerning the Use of Airport Revenue, published in the **Federal Register** on February 16, 1999.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for an aeronautical purpose.

DATES: Comments must be received on or before October 11, 2006.

FOR FURTHER INFORMATION CONTACT: Melanie Laud, Program Manager, 11677 South Wayne Road, Suite 107, Romulus, Michigan 48174. Telephone Number (734) 229–2929, Fax (734) 229–2950. Documents reflecting this FAA action may be reviewed at this same location or at Muskegon County Airport, Muskegon, Michigan.

SUPPLEMENTARY INFORMATION: Following is a legal description of the property located in Norton Shores, Muskegon County, Michigan, and described as follows: The southerly 33 ft of the following described parcel: Commence at a point on the North ⅛th line of Section 19, 1,713 5/12 ft East of the North ⅛th post on the West line of said section; thence South to a point on the East/West ¼ line of said section 1,680 ft East of the West ¼ post; thence East on the East/West ¼ line to center post of said Section 19; thence North on North/South ¼ line of said section to West ⅛th line of said section; thence West along said ⅛th line to point of beginning. Section 19, Town 8 North, Range 16 West, City of Norton Shores, Muskegon County, Michigan.

Dated: Issued in Romulus, Michigan on August 24, 2006.

Irene R. Porter,

Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 06–7525 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property at the Oneida-Scott Municipal Airport, Oneida, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Request for Public Comment.

SUMMARY: The Federal Aviation Administration is requesting public comment on the release of land at the Oneida-Scott Municipal Airport in the City of Oneida, Tennessee. This property, approximately 18.08 acres, will change to a non-aeronautical use. This action is taken under the provisions of Section 125 of the Wendell H. Ford Aviation Investment Reform Act for the 21st Century (AIR 21).

DATES: Comments must be received on or before October 11, 2006.

ADDRESSES: Documents are available for review at the Tennessee Department of Transportation, Division of Aeronautics, 424 Knapp Blvd, Bldg 4219, Nashville, TN 37217 and the FAA Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. Written comments on the Sponsor's request must be delivered or mailed to: Mr. Phillip J. Braden, Manager, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118.

In addition, a copy of any comments submitted to the FAA must be mailed or delivered to Mr. Bob Woods, Director, TDOT, Division of Aeronautics, P.O. Box 17326, Nashville, TN 37217.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Thompson, Program Manager, Federal Aviation Administration, Memphis Airports District Office, 2862 Business Park Drive, Building G, Memphis, TN 38118. The application may be reviewed in person at this same location, by appointment.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the request to release property at the Oneida-Scott Municipal Airport, Oneida, TN. Under the provisions of AIR 21 (49 U.S.C. 47107(h)(2)).

On August 31, 2006, the FAA determined that the request to release property at Franklin-Wilkins Airport submitted by the airport owner meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, no later than October 11, 2006.

The following is a brief overview of the request:

The County of Scott and the Scott County Airport Authority, owners of the Oneida-Scott Municipal Airport, are proposing the release of approximately 18.08 acres of airport property so the property can be converted to use for industrial development.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon appointment and request, inspect the request, notice and other documents germane to the request in person at the Tennessee Department of Transportation, Division of Aeronautics.

Issued in Memphis, TN on August 31, 2006.

Phillip J. Braden,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 06–7576 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Air Traffic Procedures Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

SUMMARY: The FAA is issuing this notice to advise the public that a meeting of the Air Traffic Procedures Advisory Committee (ATPAC) will be held to review present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

DATES: The meeting will be held Tuesday, October 24, 2006 from 9 a.m. to 4:30 p.m., Wednesday, October 25, from 9 a.m. to 4:30 p.m., and Thursday, October 26, from 9 a.m. to noon.

ADDRESSES: The meeting will be held at the CGH Technologies Inc Office, Training Conference Room, Eighth Floor, 600 Maryland Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy B. Kalinowski, Executive Director, ATPAC, System Operations Airspace and Aeronautical Information Management, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–9205.

SUPPLEMENTARY INFORMATION: Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the ATPAC to be

held Tuesday, October 24, 2006 from 9 a.m. to 4:30 p.m., Wednesday, October 25, from 9 a.m. to 4:30 p.m., and Thursday, October 26, from 9 a.m. to noon.

The agenda for this meeting will cover a continuation of the ATPAC's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures. It will also include:

1. Approval of Minutes;
2. Submission and Discussion of Areas of Concern;
3. Discussion of Potential Safety Items;
4. Report from Executive Director;
5. Items of Interest; and
6. Discussion and agreement of location and dates for subsequent meetings.

Attendance is open to the interested public but limited to space available. With the approval of the Chairperson, members of the public may present oral statements at the meeting. Persons desiring to attend and persons desiring to present oral statement should notify Ms. Nancy B. Kalinowski no later than October 2, 2006. The next quarterly meeting of the FAA ATPAC is scheduled for January 9–11, 2007, in Washington, DC.

Any member of the public may present a written statement to the ATPAC at any time at the address given above.

Issued in Washington, DC, on August 31, 2006.

Nancy B. Kalinowski,

Executive Director, Air Traffic, Procedures Advisory Committee.

[FR Doc. 06–7523 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Research, Engineering and Development Advisory Committee

AGENCY: Federal Aviation Administration.

ACTION: Notice of meeting.

Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 2), notice is hereby given of a meeting of the FAA Research, Engineering and Development (R,E&D) Advisory Committee.

Name: Research, Engineering and Development Advisory Committee

Time and Date: September 20—9 a.m. to 5 p.m.

Place: Federal Aviation Administration, 800 Independence Avenue, SW.—Bessie Coleman Room, Washington, DC 20591.

Purpose: The meeting agenda will include receiving from the Committee guidance for FAA's research and development investments in the areas of air traffic services, airports, aircraft safety, human factors and environment and energy. We will also receive recommendations from the Separation Standards Working Group. Attendance is open to the interested public but seating is limited. Persons wishing to attend the meeting or obtain information should contact Gloria Dunderman at (202) 267–8937 or *gloria.dunderman@faa.gov.* Attendees will have to present picture ID at the security desk and escorted to the Bessie Coleman Room.

Members of the public may present a written statement to the Committee at any time.

Issued in Washington, DC on September 5, 2006.

John D. Rekstad,

Program Director, Research Planning Division.

[FR Doc. 06–7524 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Policy No. PS–ANE33–ACE23–2006–1]

Policy Statement on Approval for 10-Minute Rated Takeoff Thrust/Power During Takeoff With One-Engine Inoperative (OEI) Under 14 CFR Part 23 and 14 CFR Part 33

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of issuance; policy statement.

SUMMARY: The Federal Aviation Administration (FAA) announces the availability of policy for the approval for 10-minuted rated takeoff thrust/power during takeoff with one-engine inoperative (OEI) under 14 CFR parts 23 and 33.

DATES: The FAA issued policy statement number PS–ANE33–ACE23–2006–1 on August 30, 2006.

FOR FURTHER INFORMATION CONTACT: Dorina Mihail, FAA, Engine and Propeller Standards Staff, ANE–11, 12 New England Executive Park, Burlington, MA 01803; e-mail: *dorina.mihail@faa.gov;* telephone: (781) 238–7153; fax: (781) 238–7199. The policy statement is available on the Internet at the following address: *http://www.faa.gov.* (click on the ''Regulations and Policies'' tab, then ''Regulatory and Guidance Library''). If you do not have access to the Internet, you may request a copy of the policy by contacting the individual listed in this section.

SUPPLEMENTARY INFORMATION: The FAA published the policy at *http://www.faa.gov/aircraft/draft_docs/* on May 23, 2006 to announce the availability of the proposed policy and invite interested parties to comment.

We have filed in the docket all comments we received, as well as a report summarizing each substantive public contact with FAA personnel concerning this policy. The docket is available for public inspection. If you wish to review the docket in person, go to the above address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Background

This FAA policy statement presents one method to obtain approval to operate an aircraft engine at the rated thrust or power for up to 10 minutes during aircraft takeoff when one engine becomes inoperative. This policy is applicable to an aircraft certificated under 14 CFR part 23 powered by turbojet or turboprop engines certificated under 14 CFR part 33. The Engine and Propeller Directorate and the Small Airplane directorate jointly issued this policy statement.

(Authority: 49 U.S.C. 106(g), 40113, 44701–44702, 44704.)

Issued in Burlington, Massachusetts, on September 5, 2006.

Francis A. Favara,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 06–7575 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Draft Environmental Impact Statement: Pulaski and Laurel Counties, KY

AGENCY: Federal Highway Administration (FHWA), USDOT.

ACTION: Extension of Comment Period.

SUMMARY: On July 10, 2006, we published the Notice of Availability for the Draft Environmental Impact Statement (DEIS) for the proposed interstate facility in the south-central portion of Kentucky, between the Somerset Northern Bypass (I–66) and London, KY. The comment period on the DEIS is being extended to October 9, 2006.

FOR FURTHER INFORMATION CONTACT: Ms. Mary Murray, Transportation Engineer/ Project Manager, Federal Highway Administration, 330 West Broadway, Frankfort, Kentucky 40601, (502) 223–6745, by e-mail to *Mary.Murray@fhwa.dot.gov;* or Mr. Joe Cox, Kentucky Transportation Cabinet (KYTC), District 8, PO Box 780, Somerset, KY 42501, by e-mail to *Joe.Cox@ky.gov*, by fax to (606) 677–4013.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program) (23 U.S.C. 315; 49 CFR 1.48)

Dated: August 30, 2006.

Jose Sepulveda,

Kentucky Division Administrator.

[FR Doc. 06–7566 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–99–6156, FMCSA–00–7006, FMCSA–00–7165, FMCSA–02–12294]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: FMCSA announces its decision to renew the exemptions from the vision requirement in the Federal Motor Carrier Safety Regulations for 42 individuals. FMCSA has statutory authority to exempt individuals from the vision requirement if the exemptions granted will not compromise safety. The Agency has concluded that granting these exemptions will provide a level of safety that will be equivalent to, or greater than, the level of safety maintained without the exemptions for these commercial motor vehicle (CMV) drivers.

DATES: This decision is effective September 21, 2006. Comments must be received on or before October 11, 2006.

ADDRESSES: You may submit comments identified by DOT Docket Management System (DMS) Docket Numbers FMCSA–99–6156, FMCSA–00–7006, FMCSA–00–7165, FMCSA–02–12294, using any of the following methods.

- *Web site: http://dmses.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the Agency name and docket numbers for this Notice. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, *maggi.gunnels@dot.gov* FMCSA, Department of Transportation, 400 Seventh Street, SW., Room 8301, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Exemption Decision

Under 49 U.S.C. 31136(e) and 31315, FMCSA may renew an exemption from the vision requirements in 49 CFR 391.41(b)(10), which applies to drivers of CMVs in interstate commerce, for a two-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption.'' The procedures for requesting an exemption (including renewals) are set out in 49 CFR part 381. This Notice addresses 42 individuals who have requested renewal of their exemptions in a timely manner. FMCSA has evaluated these 42 applications for renewal on their merits and decided to extend each exemption for a renewable two-year period. They are:

Elijah A. Allen, Jr.	James F. Gereau	Daniel Salinas
John W. Arnold	Ronald E. Goad	Robert L. Savage
James H. Bailey	Esteban G. Gonzalez	Wayne R. Sears
Derric D. Burrell	Reginald I. Hall	Lee R. Sidwell
Monty G. Calderon	James O. Hancock	David L. Slack
Anthony J. Cesternino	Sherman W. Hawk, Jr.	James C. Smith
James A. Creed	Gordon W. Howell	Daniel A. Sohn
Tommy J. Cross, Jr.	Robert C. Jeffres	Roger R. Strehlow
Eric L. Dawson, III	Alfred C. Jewell, Jr.	John T. Thomas
Richard L. Derick	Lewis V. McNeice	Brian W. Whitmer
Craig E. Dorrance	Kevin J. O'Donnell	Jeffrey D. Wilson
Joseph A. Dunlap	Gregory M. Preves	Larry M. Wink
Calvin J. Eldridge	James M. Rafferty	Joseph F. Wood
Shawn B. Gaston	Paul C. Reagle, Sr.	William E. Woodhouse

These exemptions are extended subject to the following conditions: (1) That each individual have a physical examination every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the standard in 49 CFR 391.41(b)(10), and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file and retain a copy of the certification on his/her person while driving for presentation to a duly authorized Federal, State, or local enforcement official. Each exemption will be valid

for two years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application for additional two year periods. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 42 applicants has satisfied the entry conditions for obtaining an exemption from the vision requirements (64 FR 54948; 65 FR 159; 67 FR 57266; 69 FR 52741; 65 FR 20245; 65 FR 57230; 67 FR 67234; 65 FR 33406; 65 FR 57234; 67 FR 46016; 67 FR 57267; 69 FR 51346). Each of these 42 applicants has requested timely renewal of the exemption and has submitted evidence showing that the vision in the better eye continues to meet the standard specified at 49 CFR 391.41(b)(10) and that the vision impairment is stable. In addition, a review of each record of safety while driving with the respective vision deficiencies over the past two years indicates each applicant continues to meet the vision exemption standards. These factors provide an adequate basis for predicting each driver's ability to continue to drive safely in interstate commerce. Therefore, FMCSA concludes that extending the exemption for each renewal applicant for a period of two years is likely to achieve a level of safety equal to that existing without the exemption.

Request for Comments

FMCSA will review comments received at any time concerning a particular driver's safety record and determine if the continuation of the exemption is consistent with the requirements at 49 U.S.C. 31136(e) and 31315. However, FMCSA requests that interested parties with specific data concerning the safety records of these drivers submit comments by October 11, 2006.

FMCSA believes that the requirements for a renewal of an exemption under 49 U.S.C. 31136(e) and 31315 can be satisfied by initially granting the renewal and then requesting and evaluating, if needed, subsequently comments submitted by interested parties. As indicated above, the Agency previously published Notices of final disposition announcing its decision to exempt these 42 individuals from the vision requirement in 49 CFR 391.41(b)(10). That final decision to grant the exemption to each of these individuals was based on the merits of each case and only after careful consideration of the comments received to its Notices of applications. Those Notices of applications stated in detail the qualifications, experience, and medical condition of each applicant for an exemption from the vision requirements. That information is available by consulting the above cited **Federal Register** publications.

Interested parties or organizations possessing information that would otherwise show that any, or all of these drivers, are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

Issued on: September 5, 2006.

Rose A. McMurray,

Associate Administrator, Policy and Program Development.

[FR Doc. E6–14998 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2006–25549]

Availability of a Draft Environmental Assessment

AGENCY: Department of Transportation, Maritime Administration.

ACTION: Notice of the Availability of a draft Environmental Assessment.

SUMMARY: The purpose of this Notice is to make available to the public the draft Environmental Assessment (EA) for the Nuclear Ship SAVANNAH decommissioning. The draft EA analyzes the impacts associated with the full nuclear decommissioning of the vessel.

DATES: Comments on this draft Environmental Assessment must be received by October 11, 2006.

ADDRESSES: You may submit comments [identified by DOT DMS Docket Number MARAD–2006–25549] by any of the following methods:

- *Web site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 7th St., SW., Nassif Building, Room PL–401, Washington, DC 20590–001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 7th St., SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

Instructions: All submissions must include the agency name and docket number for this action. Note that all comments received will be posted without change to *http://dms.dot.gov* including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 7th St., SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Junemann, Environmental Protection Specialist, Office of Environmental Activities, U.S. Maritime Administration, 400 Seventh Street, SW., Room 7209, Washington, DC 20590; telephone (202) 366–1920, fax (202) 366–6988.

SUPPLEMENTARY INFORMATION: An electronic version of this document and all documents entered into this docket are available at *http://dms.dot.gov.* In addition, copies of the draft EA are available for public viewing at Kirn Memorial Main Library in Norfolk, VA, Dorchester and Otranto libraries in North Charleston, SC, and the Randall Library at the University of North Carolina.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit *http://dms.dot.gov.*

(Authority: 49 CFR 1.66)

By Order of the Maritime Administrator.

Dated: September 6, 2006.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. E6–14985 Filed 9–8–06; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Bureau of the Public Debt

Proposed Collection: Comment Request

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A). Currently the Bureau of the Public Debt within the Department of the Treasury is soliciting comments concerning the extension of information collections under the regulations which were issued pursuant to the Government Securities Act.

DATES: Written comments should be received on or before November 11, 2006, to be assured of consideration.

ADDRESSES: Direct all written comments to Bureau of the Public Debt, Vicki S. Thorpe, 200 Third Street, Parkersburg, WV 26106–1328, or *Vicki.Thorpe@bpd.treas.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Vicki S. Thorpe, Bureau of the Public Debt, 200 Third Street, Parkersburg, WV 26106–1328, (304) 480–8150.

SUPPLEMENTARY INFORMATION:

Title: Government Securities Act Regulations.

OMB Number: 1535–0089.

Abstract: The information collections are contained within the regulations issued pursuant to the Government Securities Act (GSA), as amended (15 U.S.C. 780–5), which require government securities brokers and dealers to make and keep certain records concerning their business activities and their holdings of securities, to submit financial reports, and to make certain disclosures to investors. The regulations also require depository institutions to keep certain records of non-fiduciary custodial holdings of government securities. The regulations and associated collections are fundamental to customer protection and dealer financial responsibility.

Current Actions: None.

Type of Review: Extension.

Affected Public: Government securities brokers and dealers and depository institutions.

Estimated Number of Respondents: 4,507.

Estimated Total Annual Burden Hours: 373,335.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: September 5, 2006.

Vicki S. Thorpe,

Manager, Graphics, Printing and Records Branch.

[FR Doc. E6–14946 Filed 9–8–06; 8:45 am]

BILLING CODE 4810–39–P

Corrections

Federal Register

Vol. 71, No. 175

Monday, September 11, 2006

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–54351; File No. SR–Amex–2006–44]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change and Amendments No. 1 and 2 Thereto Relating to the Listing and Trading of the DB Currency Index Value Fund

Correction

In notice document E6–14304 beginning on page 51245 in the issue of Tuesday, August 29, 2006, make the following correction:

On page 51255, in the second column, in the last two lines of the first full paragraph, ''September 19, 2006'' should read ''September 13, 2006''.

[FR Doc. Z6–14304 Filed 9–8–06; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Monday,
September 11, 2006

Part II

Securities and Exchange Commission

17 CFR Parts 232, 239, 240, 249 et al. Electronic Filing of Transfer Agent Forms; Proposed Rule

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 232, 239, 240, 249, 249b, 269, and 274

[Release No. 34–54356; File No. S7–14–06]

RIN 3235–AJ68

Electronic Filing of Transfer Agent Forms

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities and Exchange Commission (''Commission'') is proposing to amend the rules and forms under Section 17A of the Securities Exchange Act of 1934 (''Act'') to require that the forms filed with respect to transfer agent registration, annual reporting, and withdrawal from registration be filed with the Commission electronically. The forms would be filed on the Commission's EDGAR database in XML format and would be accessible to Commission staff and the public for search and retrieval. The proposed rulemaking would improve the Commission's ability to utilize the information reported on the forms in performing its oversight function of transfer agent operations and to publicly disseminate the information on the forms.

DATES: Comments should be submitted on or before October 26, 2006.

ADDRESSES: Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *http:// www.sec.gov/ rules/proposed.shtml;* or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number S7–14–06 on the subject line; or
- Use the Federal eRulemaking Portal (*http://www.regulations.gov*). Follow the instructions for submitting comments.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to file number S7–14–06. This file number should be included on the subject line if e-mail is used. To help us process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/proposed/ shtml*). Comments are also available for public inspection and copying in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549. All comments received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Jerry Carpenter, Assistant Director, or Catherine Moore, Special Counsel, Office of Clearance and Settlement, Division of Market Regulation, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–6628 or at (202) 551–5710. For assistance with technical questions about EDGAR, call the EDGAR Filer Support Office at (202) 551–8900.

SUPPLEMENTARY INFORMATION:

I. Introduction

We propose to require transfer agents to file Form TA–1, Form TA–2, and Form TA–W (''transfer agent forms'') [1] electronically through the Commission's Electronic Data Gathering, Analysis, and Retrieval (''EDGAR'') system.[2] We have developed a new application in EDGAR (''EDGARLite'') that enables filers to prepare an electronic version of transfer agent forms using a commercial software package, Microsoft InfoPath 2003 (''MS InfoPath'')™, and to submit the forms to EDGAR over an Internet connection.[3] Transfer agents would not be required to use the EDGARLite application to prepare the forms, although we expect that most would choose to do so.

An electronic filing system for transfer agent forms would streamline the filing process, improve our ability to register and monitor transfer agents, and facilitate the retrieval and public dissemination of the data collected on the forms. The proposal would amend Commission rules and forms to implement the new filing system: (1) Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1[4] would be amended to require that Forms TA–1, TA–2, and TA–W be filed electronically; (2) Regulation S–T,[5] the Commission's regulation containing the rules for electronic filing in EDGAR, would be amended to mandate that Form TA–1, Form TA–2, and Form TA–W be filed electronically in EDGAR; (3) Form TA–1, Form TA–2, Form TA–W and the instructions to the forms would be amended to accommodate electronic filing, make minor changes to eliminate inconsistencies in the forms, and remove outdated instructions or requests for information; and (4) Rule 17Ac2–1 and related Form TA–1 would be amended to require that all registered transfer agents refile electronically in EDGAR as an amended Form TA–1 the information previously filed on their Form TA–1 and any amendments thereto.

In order to comply with an electronic filing requirement, transfer agents would need to have a computer that meets the system requirements in the EDGAR Filer Manual to prepare and submit the forms electronically. Transfer agents would need Internet access and a web browser to download the forms from an EDGAR Web site and transmit the completed forms. Transfer agents would also have to apply for and obtain access to EDGAR prior to filing the forms electronically in EDGAR.

II. Background

A. Transfer Agent Forms

Section 17A(c)(1) of the Act requires that an entity that performs the function of a transfer agent with respect to a security registered under Section 12 of the Act to register with that entity's appropriate regulatory agency (''ARA'').[6] Depending on the type of entity that is registered as a transfer agent, the ARA is either the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, or the Commission.[7] There are currently

[1] 17 CFR 249b.100, 101, and 102, respectively.

[2] EDGAR is the Commission's computer system for the receipt, acceptance, review, and dissemination of documents submitted in electronic format. The term electronic format means the computerized format of a document prepared in accordance with the EDGAR Filer Manual. 17 CFR 232.11.

[3] The application will produce an Extensible Markup Language (''XML'') version of the filing with all data elements identified through XML tags. A ''tag'' is an identifier that highlights specific information to EDGAR that is in the format required by the EDGAR Filer Manual. 17 CFR 232.11.

[4] 17 CFR 240.17Ac2–1, 17Ac2–2, and 17Ac3–1, respectively.

[5] 17 CFR 232 *et seq.*

[6] 15 U.S.C. 78q–1(c)(1).

[7] 15 U.S.C. 78c(a)(34)(B). When used with respect to a clearing agency or transfer agent, the term ''appropriate regulatory agency'' means: (i) The Comptroller of the Currency, in the case of a national bank or a bank operating under the Code of Law for the District of Columbia, or a subsidiary of any such bank; (ii) the Board of Governors of the Federal Reserve System, in the case of a State member bank of the Federal Reserve System, a subsidiary thereof, a bank holding company, or a subsidiary of a bank holding company which is a bank other than a bank specified in clause (i) or (ii) of this subparagraph; (iii) the Federal Deposit Insurance Corporation, in the case of a bank insured by the Federal Deposit Insurance Corporation (other than a member of the Federal Reserve System), or a subsidiary thereof; and (iv) the Commission in the case of all other clearing agencies and transfer agents.

785 registered transfer agents with 519 registered with the Commission and 266 registered with the other ARAs.

There are three transfer agent forms filed with the Commission: (1) Form TA–1, Uniform Form for Registration as a Transfer Agent and for Amendment to Registration Pursuant to Section 17A of the Securities Exchange Act of 1934; (2) Form TA–2, Form for Reporting Activities of Transfer Agents Registered Pursuant to Section 17A of the Securities Exchange Act of 1934; and (3) Form TA–W, Notice of Withdrawal from Registration as a Transfer Agent. Only transfer agents that are registered with the Commission file Form TA–1 and Form TA–W with the Commission. All transfer agents, however, whether they are registered with the Commission or another ARA, file Form TA–2 with the Commission. The Commission uses the information on the transfer agent forms to review and approve an entity's application for registration as a transfer agent, maintain current information about transfer agents, and monitor the operations performed by and the services provided by transfer agents. The information filed on the Form TA–1, Form TA–2, and Form TA–W is publicly available.

Over 1,000 transfer agent forms are filed with the Commission each year. The Commission receives new or amended transfer agent registrations on Form TA–1 and withdrawals from registration on Form TA–W; however, most of the transfer agent forms received by the Commission are the annual reports filed by transfer agents on Form TA–2, which are required to be filed with the Commission during the three month period between January 1 and March 31.[8] Although all registered transfer agents are required to file a Form TA–2, the Commission receives fewer Forms TA–2 than there are registered transfer agents. This may be because some registered transfer agents have dissolved without filing a Form TA–W, the paper Form TA–2 was lost or misdirected, or some transfer agents are not meeting the Form TA–2 filing requirement.

To facilitate public dissemination of the information, the Commission staff enters basic information from the forms into EDGAR, including the name and address of the transfer agent, the transfer agent's registration number, and the date the form was filed with the Commission. This data is then disseminated on the EDGAR section of Commission's Web site.[9] In order to view all of the information on a form, however, members of the public must request a hard copy of the form from the Commission's public reference room or obtain the information from a third party information service company for a fee.

B. Electronic Filing of Transfer Agent Forms

The proposed electronic filing system for transfer agent forms would be beneficial for transfer agents, investors, and the Commission. This filing system would use the EDGARLite application, which was developed to supplement the existing EDGARLink application.[10] In EDGARLite, form templates would be completed offline and then transmitted to EDGAR over an Internet connection much like EDGARLink. Unlike EDGARLink, however, EDGARLite would automatically insert tags for all of the data reported on the form and not just the header information. Because all of the data would be in a tagged data format, it could be easily searched and sorted for purposes of running reports or statistics once it was in the EDGAR database.

Regulation S–T sets forth the rules governing electronic filing in EDGAR. The EDGAR Filer Manual, which is promulgated by the Commission under Rule 301 of Regulation S–T,[11] provides the instructions and technical requirements for submitting filings to EDGAR. In preparation for electronic filing, should the Commission adopt the proposed rule, transfer agents should review Regulation S–T and the relevant portions of the EDGAR Filer Manual, Volume I (General Information).[12] In particular, transfer agents should review Section 2.5 of Volume I, which provides the EDGAR hardware and software requirements, Section 3 of Volume I, which provides instructions on becoming an EDGAR filer, and Section 6 of Volume I, which provides instructions for filing on EDGAR.

This proposal would require a new section to Volume II (EDGAR Filing) of the EDGAR Filer Manual. As with typical changes to the EDGAR Filer Manual, the Commission, in its discretion, may post a draft of the new section, but any draft is subject to Commission approval and may be revised prior to approval or not approved at all.[13] The new section would provide detailed instructions for preparing forms using EDGARLite. In general, filers would create filings using EDGARLite by downloading form templates from a Commission Web site and then saving the form templates on their computers. Forms would be filled out offline. By bundling the form templates with the MS InfoPath™ software, EDGARLite would allow filers to use forms that include data validation tools to prevent mistakes. Filers would transmit the forms to EDGAR using the Online Forms/XML EDGARLite Web site.[14] There would be no fees charged to transfer agents by the Commission in connection with electronic filing of transfer agent forms.

Under the new electronic filing requirement, each answer provided by the transfer agent would be formatted as an XML (''Extensible Markup Language'') data tag.[15] XML is a widely used text format that allows for the flexible use and exchange of data. The Commission designed the proposed filing system to use XML data tags so that all of the information filed by transfer agents could be used by Commission staff and the public for searches, retrievals, and data analysis. To facilitate the filing of the information as XML data tags, the Commission developed EDGARLite to provide filers with an easy to use, form-driven tool that can gather information and convert it to XML. EDGARLite bundles form templates created by the Commission with a commercial ''off the shelf'' software package, MS InfoPath™. Transfer agents would need to have MS InfoPath™ installed on their computers in order to use EDGARLite.

EDGARLite is the first EDGAR application that would require filers to purchase and install a specific commercial software package chosen by the Commission. The Commission designed EDGARLite to utilize commercial software because it was the most cost-efficient way to allow information reported on a relatively small number of forms to be filed on

[8] 17 CFR 240.17Ac2–2. For the years 2003 through 2005, the Commission received an average of 1,069 transfer agent forms each year, including 41 Forms TA–1, 247 amended Forms TA–1, 709 Forms TA–2, 31 amended Forms TA–2, and 39 Forms TA–W.

[9] *http://www.sec.gov/edgar.shtml.*

[10] For more information about EDGARLink, refer to the EDGAR Filer Manual, Volume II.

[11] 17 CFR 232.301.

[12] Transfer agents may download the latest version of the Filer Manual from the Commission's Web site *www.sec.gov* under the section ''Information for EDGAR Filers.''

[13] Any draft of the EDGAR Filer Manual that is posted before Commission approval of potential regulatory changes is provided as a service to the filing community to assist filers, agents, and software developers prepare for potential changes Commission staff anticipates. The Commission retains the right to change any part of the manual before the new system release is made final and the posting of the draft manual does not indicate Commission approval of any pending proposed changes relating to the potential changes reflected in the draft manual.

[14] *https://www.onlineforms.edgarfiling.sec.gov.*

[15] A tag is an identifier that highlights specific information to EDGAR that is in the format required by the EDGAR Filer Manual. 17 CFR 232.11.

EDGAR as tagged data in XML format. It would not be economically feasible for the Commission to develop an EDGAR application for transfer agent forms without using commercial software. The Commission evaluated several commercial software products and determined that MS InfoPath™ was the only product currently available that is suitable for EDGARLite. The Professional Enterprise Edition of Microsoft Office includes MS InfoPath.™ Purchased separately, MS InfoPath™ costs approximately $200.

As an alternative to purchasing the software, transfer agents could prepare the forms outside of EDGARLite by creating an XML tagged version of the filing as an ASCII document using technical specifications that would be available on the Commission's Web site.[16] This filing method would require some technical expertise on the part of the filer, and the Commission expects that most transfer agents would choose to purchase the software and prepare the forms using EDGARLite.[17] As another alternative, transfer agents could hire a third party to prepare and submit the electronic forms for them; however, this filing method would likely cost the transfer agent more than purchasing the MS InfoPath™ software.

The Commission is proposing to amend Regulation S–T, Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1, and Form TA–1, Form TA–2, and Form TA–W to require that all transfer agent forms filed with the Commission be filed electronically.[18] Transfer agents would be able to apply for a hardship exemption from the electronic filing requirement pursuant to Rule 202 of Regulation S–T.[19] Rule 202 provides that an electronic filer may apply in writing for a continuing hardship exemption if the filing cannot be submitted to the Commission in electronic format without undue burden or expense. The Commission determines whether to grant or to deny the application based on whether the exemption is appropriate and is consistent with the public interest and the protection of investors.

The Commission would configure the electronic Form TA–1 and Form TA–2 to allow filers to designate a form as an amendment to a previous submission. Amended forms would have to be completed in full pursuant to the instructions on the form. This differs from the current procedure where transfer agents complete only their identifying information and the questions for which the information has changed. Transfer agents would be able to use as a template for the amended form a previously filed electronic form that they had saved. After amending the previously saved filed form, they would submit the amended form to EDGAR.

For the first year of electronic filing only, transfer agents that are registered with the Commission would be required to file an amended Form TA–1 before they could file a Form TA–2.[20] By so requiring, the Commission would be able to establish a complete and current record of registration information for transfer agents registered with the Commission in a single, centralized, and searchable database. Form TA–1 collects important information regarding transfer agents, such as name, address, organizational structure, and control persons. The requirement to file an amended Form TA–1 when the electronic filing system first becomes effective would make the data previously reported on the paper form readily available for Commission use and public dissemination. Additionally, the requirement is designed to ensure that transfer agents have a complete electronic version of the form to use as a template for future amendments. It would provide an opportunity for transfer agents to make sure that their Form TA–1 is current and that all amendments to correct inaccurate, misleading, or incomplete information are made. Because transfer agents are required to maintain a copy of Form TA–1 and any amendments to Form TA–1 with their records,[21] they should have all the information necessary to complete and electronically file an amended Form TA–1.

The Commission anticipates that the new filing system would be available prior to January 1, 2007, provided that the proposed amendments have been adopted and are effective by that date. Accordingly, the Commission anticipates that registered transfer agents will file their Forms TA–2 for the 2006 reporting period on EDGAR.

III. Proposed Amendments

The proposed amendments would make the following changes to Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1, Regulation S–T, and to Form TA–1, Form TA–2, and Form TA–3 and the instructions to the forms as well as to Form ID.

A. Changes to Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1 To Require Electronic Filing

The proposed amendments would add a paragraph to each of Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1 to require electronic filing of Form TA–1, Form TA–2, and Form TA–W, respectively, on the Commission's EDGAR system. The amendments would require transfer agents to file their forms according to the instructions on the forms and in the EDGAR Filer Manual. The Commission requests the views of commenters on the proposed amendments to require electronic filing of Form TA–1, Form TA–2, and Form TA–W.

B. Amendments to Regulation S–T

The Commission is proposing to amend Regulation S–T to mandate the submission of the transfer agent forms in electronic format. Additionally, the Commission is proposing to amend Regulation S–T to exclude the transfer agent forms from the applicability of Rule 104, and Rule 201, as discussed below.

1. Rule 101(a), Mandated Electronic Filing

Rule 101(a) of Regulation S–T lists the filings that must be submitted to the Commission in electronic format.[22] The proposed rule would amend Rule 101(a) to mandate that Form TA–1, Form TA–2, and Form TA–W be submitted to the Commission in electronic format.

2. Rule 104, Unofficial PDF Copies Included in an Electronic Submission

Rule 104 of Regulation S–T provides that an electronic submission may include one unofficial portable document format (''PDF'') copy of each electronic document contained within a submission, tagged in the format required by the EDGAR Filer Manual.[23] The purpose of this rule is to allow filers to provide a copy of their submission in a format that creates a

[16] An ASCII document is an electronic text document that has contents limited to American Standard Code for Information Interchange (''ASCII'') characters. 17 CFR 232.11.

[17] Third party software developers may also use the technical specifications to create a software product to compete with or enhance the EDGARLite application.

[18] A paper copy version of the forms and instructions would be available from the Commission Publications Office and on the Commission's Web site for information purposes and for use by transfer agents that were granted a hardship exemption from electronic filing under Rule 202 of Regulation S–T.

[19] 17 CFR 232.202.

[20] Transfer agents registered with an ARA other than the Commission do not file Form TA–1 or Form TA–W with the Commission and accordingly would not be subject to this requirement.

[21] Instruction I.D. to Form TA–1.

[22] 17 CFR 232.101(a).

[23] 17 CFR 232.104(a).

structured, easy to read document for public dissemination.

The electronic transfer agent forms would be structured, tagged data forms that are easy to read in the format in which they are submitted, and it would be unnecessary to have a PDF version of the forms submitted. Therefore, the Commission is proposing to amend Rule 104(a) to exclude the transfer agent forms from the applicability of the rule.

3. Rule 201, Temporary Hardship Exemption

Rule 201 of Regulation S–T allows a temporary exemption from mandated electronic filing when, due to unanticipated technical difficulties, an electronic filer cannot submit its filing in electronic format by the filing date.[24] The filer may submit the filing in paper format no later than one business day after the filing was to be made with the Commission, and the filer must submit an electronic format copy of the form within six business days of filing the paper format document. Form TA–1 and Form TA–W do not have specified filing dates, and Form TA–2 may be filed any time between January 1 and March 31.[25] As a result, the Commission does not believe that there would be many cases where transfer agents would need the temporary hardship exemption.

If it is necessary that a transfer agent form be filed with the Commission on a date certain, there are two means by which the Commission could adjust the effective or filing date of a transfer agent form. First, the Commission has the authority under Section 17A(c) of the Act to accelerate, delay, or postpone the effective date of Form TA–1 and Form TA–W.[26] Second, Rule 13(b) of Regulation S–T provides that the Commission may adjust the filing date of an electronic filing, which would include Form TA–1, Form TA–2, or Form TA–W, if the filer in good faith attempts to file with the Commission in a timely manner but the filing is delayed due to technical difficulties beyond the filer's control.[27] Accordingly, the Commission is proposing to amend Rule 201(a) to exclude the transfer agent forms from the applicability of Rule 201.

The Commission requests the views of commenters on the proposed amendments to Regulation S–T.

C. Miscellaneous Amendments

The Commission is proposing to make the following amendments to the transfer agent rules to remove outdated information.

1. Reference to 17A(c)(3)(C) in Rule 17Ac3–1

Rule 17Ac3–1 implements the section of the Act that permits a transfer agent to withdraw from registration. The rule currently cites that section as 17A(c)(3)(C) of the Act; however, when the Act was amended in 1987, section 17A(c)(3)(C) was redesignated as 17A(c)(4).[28] The Commission is proposing to amend Rule 17Ac3–1 to reflect the change.

2. Deletion of Paragraph (c) in Rule 17Ac2–2

Paragraph (c) was added to Rule 17Ac2–2 as an amendment in June 2000.[29] The amendment changed the end of the annual reporting period for transfer agents from June 30 to December 31 of the calendar year. Paragraph (c) was added to Rule 17Ac2–2 to provide that transfer agents would not be required to file the annual report for the period ending June 30, 2000. Because this provision is no longer necessary, the Commission is proposing to remove it from the rule.

3. Revision to Rule 17Ac2–1

The proposal would integrate the SEC Supplement to Form TA–1 into the body of the form as Questions 8 through 10. As a result, there would no longer be a separate SEC Supplement. Consequently, the Commission is proposing to delete the reference in Rule 17Ac2–1 to the SEC Supplement.

D. Amendments to Form TA–1, Form TA–2, and Form TA–W

Listed below is a summary of the proposed amendments to the forms and instructions.

1. Amendments to All Forms and Instructions

The Commission would make the following amendments to Form TA–1, TA–2, and TA–W:

i. Amend the instructions to require the forms to be filed electronically in EDGAR.

ii. Replace current instructions regarding how and where to file the forms with instructions for filing through EDGAR.

iii. Amend Question 1 to require information about the filer that is required for EDGAR filing.[30]

iv. Amend the forms to allow the transfer agent to include a cover letter or other correspondence as an attachment to the form.

v. Amend the forms and instructions to provide that the forms must be executed with an electronic signature pursuant to Rule 302, Signatures, of Regulation S–T.[31]

The proposed amendments would also make nonsubstantive format changes to the forms to accommodate electronic filing. Such format changes would include drop down data blocks that allow the filer to insert additional information to a question (instead of using attached sheets, schedules, or supplements), data fields that would be designated as required fields, radio buttons that would limit the filer to specific answers to a question, and hidden data fields for questions that would not be applicable to the filer.[32]

2. Amendments to Form TA–1 and Instructions

i. The instructions would be amended to require a registered transfer agent to file an amended Form TA–1 in electronic format before it can file a Form TA–2 or Form TA–W in electronic format.

ii. A feature would be added to allow the transfer agent to designate a filing as an amended filing. The instructions will be amended to reflect this feature.

iii. Question 2, ''Filing Status,'' would be deleted because the question would be moved to the top section of the form.

iv. Questions 6, ''Service Companies Engaged by the Filer,'' would be amended to request the file number of the service company.

v. Question 7, ''Filer Engaged as a Service Company by a Named Transfer Agent,'' would be amended to request the file number of the named transfer agent.

vi. Form TA–1 Supplement, ''Control Person Information'' for Corporations

[24] 17 CFR 232.201.

[25] 17 CFR 240.17Ac2–2(a).

[26] 15 U.S.C. 78q–1(c)(2), (c)(4)(A) and (B), and 17 CFR 240.17Ac2–1(a) and 240.17Ac3–1(b).

[27] 17 CFR 232.13(b). The filer must request an adjustment of the filing date, and the Commission or its staff, pursuant to delegated authority, may grant the request if it appears that such adjustment is appropriate and consistent with the public interest and the protection of investors.

[28] Pub. L. 100–181 (S 1452), § 322(3), 101 Stat 1249, December 4, 1987.

[29] Securities Exchange Act Release No. 42892 (June 2, 2000), 65 FR 36602 (June 9, 2000).

[30] See EDGAR Filer Manual, Volume I (General Information).

[31] 17 CFR 232.302. Rule 302 provides that a signature to any electronic submission must be provided in typed rather than manual format. Each signatory is required to manually sign a signature page or other document authenticating, acknowledging, or otherwise adopting his or her signature that appears in typed form within the electronic filing before or at the time the electronic filing is made. Such document must be retained by the filer for a period of five years and shall be furnished to the Commission or its staff upon request.

[32] Filers could view the entire form by checking the box at the top of the form that expands the form to show all fields. Filers could also print the entire form using this mechanism.

(Schedule A), Partnerships (Schedule B), and Other Entities (Schedule C), would be integrated into the form as Questions 8 through 10.

vii. Form TA–1 Supplement, ''Control Person Information,'' would be amended to delete Schedule D because Schedule D is a blank sheet that provides additional space for responses and would not be necessary in the electronic form.

viii. Form TA–1 Supplement, ''Control Person Information'' for Corporations (Schedule A), Partnerships (Schedule B), and Other Entities (Schedule C), would be amended to delete the request for the social security number of control persons. This request for information is being deleted because of privacy concerns in light of the fact that the forms will be available for public dissemination through EDGAR.

ix. Form TA–1 Supplement, ''Control Person Information'' for Corporations (Schedule A), Partnerships (Schedule B), and Other Entities (Schedule C), would be amended to delete the ADD, AMEND, and DELETE Columns. Transfer agents would instead provide the beginning date of the relationship with the control person and the ending date of the relationship.

x. Instruction II, Special Instructions for Filing and Amending Form TA–1, would be amended to reflect that the Financial Industry Number Standard (''FINS'') number assigned by The Depository Trust Company (''DTC'') is now provided through DTC's Web site *http://www.dtc.org* for a nominal fee.

xi. Instruction II.A.4, the instruction regarding marking items as deleted would be removed.

xii. Instruction II.B, Amending Registration, would be revised to provide instructions on filing an amended Form TA–1 in EDGAR. All required items on the electronic form, not just those fields being amended, must be completed.

xiii. Instruction III, SEC Supplement, Amending the Supplement, would be deleted because the supplement would be integrated with the rest of the form.

3. Amendments to Form TA–2 and Instructions

i. Question 4, ''Number of Items Received for Transfer During the Reporting Period,'' would be amended to add a paragraph (b) to request the number of individual securityholder accounts for which the transfer agent maintained master securityholder accounts. The purpose of this amendment is to provide information as to whether Questions 6–10 are required to be answered under Instruction II.B of Form TA–2. A corresponding change would be made to Instruction II.B.

ii. A feature would be added to allow the transfer agent to designate a filing as an amended filing. The instructions will be amended to reflect this feature. All required items on the electronic form, not just those answers that are being amended, must be completed.

4. Amendments to Form TA–W and Instructions

i. Question 7. The reference to ''out of proof conditions'' would be deleted because the Commission no longer uses the term.

ii. Questions 9 and 10. The reference to Schedule B on Form TA–1 would be deleted because Form TA–1 was previously amended and Schedule B no longer requires the referenced information.[33] Accordingly, the phrase ''each issue shown on Schedule B of registrants Form TA–1, as amended,'' would be deleted and replaced with the phrase ''each issue for which registrant acted as transfer agent.''

iii. Instruction 1. The reference to ''Section 17A(c)(3)(C)'' would be revised to ''Section 17A(c)(4)(B).''

The Commission requests the views of commenters on the proposed amendments to Form TA–1, Form TA–2, and Form TA–W.

5. Amendment to Form ID

The Commission is proposing to amend Form ID, Uniform Application for Access Codes to File on EDGAR, to add ''transfer agent'' to the check-the-box list of applicant types (the form currently has boxes for ''filer'', ''filing agent'', ''trainer'', or ''individual'').[34] The purpose of this change is to allow the Commission to identify a new filer as a transfer agent for purposes of utilizing the special instructions in EDGARLite for the TA forms (for example, a TA–2 will be blocked if the transfer agent hasn't previously filed an electronic Form TA–1 or amended Form TA–1).[35]

The Commission requests the views of commenters on the proposed amendments to Form ID.

IV. Request for Comment

The Commission requests the views of commenters on all aspects of the proposed amendments, discussed above, to Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1, Regulation S–T, and to Form TA–1, Form TA–2, and Form TA–W and the instructions to the forms under the Act.

V. Paperwork Reduction Act

Certain provisions of the proposed amendments to the rules and forms contain ''collection of information requirements'' within the meaning of the Paperwork Reduction Act of 1995.[36] An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. The Commission has submitted the revisions to the collection of information to the Office of Management and Budget (''OMB'') for review in accordance with 44 U.S.C. 3507 and 5 CFR 1320.11. The titles of the affected information forms are Form TA–1 (OMB Control Number 3235–0084), Form TA–2 (OMB Control Number 3235–0337), and Form TA–W (OMB Control Number 2325–0151).[37]

The proposal would require Form TA–1, Form TA–2, and Form TA–W, which are currently filed with the Commission in paper form, to be filed electronically on EDGAR. The Commission collects this information pursuant to its authority under Section 17A of the Act and uses the information collected on the forms in determining whether to allow a transfer agent to register or to withdraw from registration and also uses the information in monitoring the annual activities of transfer agents. The information filed on the Form TA–1, Form TA–2, and Form TA–W is publicly available.

The respondents to the collection of information are the registered transfer agents that file Form TA–1, Form TA–2, and Form TA–W with the Commission. Only transfer agents for whom the Commission is the ARA file

[33] Securities Exchange Act Release No. 23084 (March 27, 1986), 51 FR 12124 (April 9, 1986).

[34] 17 CFR 239.63.

[35] Transfer agents that have previously filed a transfer agent form with the Commission are currently in the system. Only those transfer agents that are filing a transfer agent form with the Commission for the first time would be required to complete and file a Form ID.

[36] 44 U.S.C. 3501 *et seq.*

[37] The Commission estimates that each year a small number of transfer agents would need to file a Form ID (OMB Control Number 3235–0328) with the Commission in order to gain access to EDGAR. Form ID is used to request the assignment of access codes to file on EDGAR. Most transfer agents would not need to file a Form ID because any transfer agent that has filed at least one transfer agent form with the Commission since 2002 has been entered into the EDGAR system by the Commission and would not need to file Form ID to file electronically on EDGAR. However, registered transfer agents that have not yet filed a transfer agent form with the Commission and new registrants would need to File Form ID.

The Commission estimates that it would receive approximately 80 Forms ID a year under the proposed rule. This number fits within the current estimated number of respondents that file a Form ID each year because the actual number of Forms ID the Commission receives is less than the current estimate.

Form TA–1 and Form TA–W with the Commission; however, all registered transfer agents, whether they are registered with the Commission or another ARA, must file the annual Form TA–2 with the Commission. Compliance with the proposed amendments would be mandatory. The information required by the proposed amendments would not be kept confidential by the Commission. The Commission's regulations that implement Section 17A of the Act are at 17 CFR 200.80 *et seq.*

The proposal would modify an existing collection of information by changing the format of a required filing from paper to electronic format and would amend the text of the forms and the instructions to the forms to conform to the electronic filing requirement. For example, the instructions for how and where to file the forms would be amended to require electronic filing on EDGAR and the top section of each form would require the transfer agent to provide information related to EDGAR filing such as its CIK, filing status, and email address. Also, transfer agents would transmit the forms to the Commission electronically instead of completing the forms in paper, making three copies, and mailing them to the Commission. The proposal would also amend Question 4, ''Number of Items Received for Transfer During the Reporting Period,'' on Form TA–2 to add a paragraph (b) so that the EDGARLite program could provide a data validation tool with respect to Questions 6–10. A transfer agent currently has to calculate the number of individual securityholder accounts for which it maintains master securityholder accounts under Instruction II.B of Form TA–2 in order to determine whether it is required to complete Questions 6–10. The proposal would require this information in Question 4(b) so that the EDGARLite program could highlight for the transfer agent whether questions 6–10 should or should not be completed.

Additionally, the proposal would amend Questions 6 and 7 of Form TA–1 to request the file number of a service company and of a named transfer agent instead of the financial industry number standards (FINS). The file number is an identifying number unique to each registered transfer agent and would be more useful to the Commission than the FINS for locating and identifying service companies and named transfer agents. Unlike the FINS, the file number of a transfer agent is publicly available on EDGAR and it should be just as easy or easier for a transfer agent to locate and report the file number of a service company or named transfer agent as it is to locate and report the FINS.

The Commission does not believe the estimated hour burdens for completing Form TA–1, Form TA–2, and Form TA–W would change as a result of the proposed amendments because completing an electronic form template and submitting it electronically on EDGAR should not take longer than completing a paper form and mailing the original and two copies to the Commission. The Commission believes, however, that the estimated hour burdens of Form TA–1 and for Form TA–2 should be increased for the first year to reflect the initial burden associated with filing electronically on EDGAR and the initial burden associated with the proposed requirement for each transfer agent registered with the Commission to refile the information on its Form TA–1 electronically as an amended Form TA–1.

The Commission believes that most transfer agents would incur a one time burden with respect to accessing EDGAR and training personnel to install MS InfoPath and to use EDGARLite to file electronically. Many transfer agents currently access EDGAR in some capacity, such as an issuer, investment advisor, or a third party filer, and the instructions for installing and using MS InfoPath and EDGARLite would be provided in the EDGAR Filer Manual. Based on this, the Commission estimates that the one time burden associated with electronic filing of transfer agent forms would be two hours. This increased burden would be incurred with respect to the first transfer agent form the transfer agent files with the Commission electronically. For transfer agents registered with the Commission, this would be Form TA–1, because the proposal would require transfer agents registered with the Commission to file an electronic amended Form TA–1 before they could file any other transfer agent forms electronically. For all other transfer agents, this would be Form TA–2 because that is the only form those transfer agents file with the Commission.

There are 519 transfer agents registered with the Commission. Accordingly, the increase in collection of information burden associated with filing electronically for Form TA–1 would be 1038 hours. There are 266 transfer agents registered with an ARA other than the Commission. Accordingly, the collection of information burden associated with filing electronically for Form TA–2 is 532 hours.

The Commission believes that the estimated hour burden for Form TA–1 would increase for the first year of electronic filing because the proposed amendments would require that transfer agents registered with the Commission refile the information on Form TA–1 electronically in EDGAR as an amended Form TA–1. The proposed requirement to refile the registration information is designed to ensure that the EDGAR database contains complete and current information on all transfer agents registered with the Commission as well as to create a complete form for transfer agents to use when they next amend Form TA–1.

The proposed requirement to file an amended Form TA–1 would apply to the 519 transfer agents for which the Commission is the ARA and would create a one time collection of information burden. The Commission's current estimate for completing Form TA–1 is 2 hours. As stated above, the Commission believes that the hour burden for completing the electronic forms is the same as completing the paper forms. Accordingly, the Commission estimates that each transfer agent that is required to refile the information on Form TA–1 would need approximately two hours to do so, for an increase to the total burden for the first year of 1,038 hours.

Transfer agents that file amended Forms TA–1 and TA–2 would be required to complete them in full rather than partially as currently required. However, there should not be an additional burden with respect to filing amended forms because transfer agents would be able to use the previously filed electronic amended Form TA–1 or the previously filed electronic Form TA–2 as a template for future amendments and would only need to amend the answers to those questions for which the information has become inaccurate, misleading, or incomplete.

In sum, the proposed amendments would increase the collection of information hour burden for Form TA–1 by a total of 2,076 hours (current estimate of 1,038 hours plus the additional estimate of 1,038 hours) and 1,064 hours (current estimate of 532 hours plus the additional estimate of 532 hours) for Form TA–2 for the first electronic filing only.[38] After the first electronic filing, the estimated burden would return to its current level of 1,038

[38] Based on an estimated average administrative labor cost of $31.50 per hour, the Commission's staff estimates that the total labor cost to the transfer agent industry for complying with the proposed amendments would be $98,910. (A total of 3,114 hours (2,076 + 1,038) multiplied by a cost of $31.50 per hour equals $98,910.)

hours for Form TA–1 and 532 hours for Form TA–2.

The Commission does not anticipate that the proposed amendments would impose significant additional costs for transfer agents. In order to create forms on EDGARLite and to submit forms to EDGAR, applicants are required to have a personal computer, internet access, and MS InfoPath™ software. As noted above, many transfer agents currently file electronically in EDGAR in some capacity and the Commission believes that as part of their business operations, almost all registered transfer agents have personal computers and that many have access to the internet. The cost of the MS InfoPath™ software is approximately $200; however, if the transfer agent has already purchased Microsoft Office 2000 Professional Enterprise Edition™ it will not need to purchase MS InfoPath.™ Accordingly, we estimate that the proposal would cause a cost to each transfer agent of a maximum of $200 in the initial year only. Further, if a transfer agent could demonstrate that the electronic filing requirement would cause it undue burden or expense, the Commission could grant it a continuing hardship exemption from the electronic filing requirement pursuant to Rule 202 of Regulation S–T.

Pursuant to 44 U.S.C. 3506(c)(2)(B), the Commission solicits comments to:

(1) Evaluate whether the proposed collection of information is necessary for the performance of the functions of the agency, including whether the information shall have practical utility;

(2) Evaluate and provide relevant data regarding the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility and clarity of the information to be collected; and

(4) Minimize the burden of collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.

Persons wishing to submit comments on the collection of information requirements should direct them to the following persons: (1) Desk Officer for the Securities and Exchange Commission, Office of Information and Budget (''OMB''), Room 3208, New Executive Office Building, Washington, DC 20503; and (2) Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090 with reference to File No. S7– – . OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication, so a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. The Commission has submitted the proposed collection of information to OMB for approval. Requests for the materials submitted to OMB by the Commission with regard to this collection of information should be in writing, refer to File No. S7– – , and be submitted to the Securities and Exchange Commission, Records Management, Office of Filings and Information Services, 100 F Street, NE., Washington, DC 20549.

VI. Costs and Benefits of the Proposed Rulemaking

The Commission is sensitive to the costs and benefits of our proposed rule implementing an electronic filing system for transfer agent forms. We believe that the proposed amendments would benefit transfer agents and investors by improving the efficiency and quality of the information filed with the Commission, which is available to the public. We also believe that the proposed amendments would result in certain costs to most transfer agents because they may need to purchase computer software and possibly hardware and would need to train personnel to create forms in the EDGARLite™ application and to file the forms on EDGAR. The Commission encourages commenters to identify, discuss, analyze, and supply relevant data regarding any such costs or benefits.

A. Benefits

An electronic filing system would improve the efficiency of the filing process for transfer agents and would also improve the public dissemination of the information on the forms. The electronic filing system would eliminate the burdens associated with the paper forms and the possibility of the forms being lost or misdirected. By performing data validation checks, the EDGARLite application would help to ensure that transfer agents fill the forms out completely and in the appropriate format. It would also provide transfer agents with email notification that a form has been accepted or suspended by the Commission.

The proposed rule would benefit the public because it would make the information on transfer agent forms, which is publicly available information, more easily accessible and available in a more timely manner in EDGAR than it currently is through the Commission's public reference room. The new system would also improve the Commission's ability to maintain, review, and analyze transfer agent forms by collecting and storing all of the information on the forms in a single, centralized database. The database would be updated immediately upon the receipt of new filings and would help the Commission identify delinquent filers. It would also allow for analytic tools such as data aggregation, statistical analysis, and report generation.

B. Costs

Transfer agents would incur initial and ongoing costs with respect to the electronic filing system. The Commission believes that most of the cost burden would be in terms of initial costs and would be in terms of using the electronic filing system. The Commission does not believe that transfer agents would incur additional costs in the first year as a result of completing the forms in electronic format versus in paper format because, other than amendments to Question 4 of Form TA–2 to request the number of individual securityholder accounts and to Questions 6 and 7 of Form TA–1 to request the file number of service companies and named transfer agents, the substance of the transfer agent forms is not changing. However, transfer agents that are registered with the Commission would incur additional costs with respect to completing the forms because they would be required to prepare and file an electronic amendment to their original registration on Form TA–1 and submit it to EDGAR for the first year of electronic filing before they could submit their annual report on Form TA–2.

In order to file electronic transfer agent forms in EDGAR, transfer agents would need the computer system requirements necessary to access EDGAR and would have to train personnel to prepare forms using EDGARLite. We believe that most transfer agents currently have the necessary computer system requirements as well as access to the Internet as part of their current businesses. However, the Commission believes that many transfer agents would choose to purchase MS Infopath™ which is needed to view and enter data in EDGARLite forms.

To estimate the impact of the proposal on transfer agents, the Commission reviewed the filings submitted by transfer agents to the Commission and communicated with several small and mid-size transfer agents regarding their computer systems, personnel, and familiarity with EDGAR. Many transfer agents are entities or are affiliated with entities, such as publicly traded

companies or investment companies, which submit filings to the Commission electronically in EDGAR. These transfer agents have the necessary computer system requirements and personnel to file the transfer agent forms in EDGAR, but many do not have the MS InfoPath™ software necessary to construct forms in EDGARLite. Transfer agents that have purchased Microsoft Office 2000 Professional Enterprise Edition™ have MS InfoPath™ included as part of their operating system; however, most of these transfer agents are not familiar with MS InfoPath™ and would have to train their personnel to use the software. Of the transfer agents that do not currently file forms electronically in EDGAR, most have the computer system requirements to file in EDGAR, but would need to purchase MS InfoPath™, train personnel to construct forms using EDGARLite, and submit forms electronically to EDGAR. In addition, some transfer agents may not have the necessary system requirements to file in EDGAR and would need to purchase upgrades to their computer systems as well as incur the costs related to purchasing the MS InfoPath™ software and training personnel to file forms in EDGAR using EDGARLite.

From the above information, the Commission estimates that the cost to transfer agents of the electronic filing proposal could range from only the cost of training personnel to create forms in EDGARLite to the cost of upgrading systems, purchasing MS InfoPath™ and training personnel to use the EDGAR system and EDGARLite. The EDGARLite application is designed to be easy to use and the MS InfoPath™ software is a relatively low-cost software package that is readily available. The EDGAR Filer Manual would provide instructions for installing MS InfoPath™ and for using EDGARLite. Based on this, the Commission estimates that any training for personnel with respect to electronic filing would be two hours for each registered transfer agent. Additionally, the Commission estimates that transfer agents registered with the Commission would require an additional two hours to refile the information on Form TA–1 as an amended Form TA–1 would be two hours. The Commission estimates a cost of $31.50 per hour and that the total labor cost to the transfer agent industry for complying with the proposed amendments would be $98,910.[39]

Alternatively, transfer agents or a third party could prepare the forms without MS InfoPath™ by creating an XML tagged version of the filing as an ASCII document using technical specifications that would be available on the Commission's public Web site.[40] The Commission would integrate the XML tags with the form template to create a structured form that is identical to the form created in EDGARLite for the purpose of viewing the form in EDGAR. This filing method would require some technical expertise on the part of the filer, however. Additionally, transfer agents could hire a third party filer to prepare and submit the forms on their behalf using MS InfoPath.™ Third parties generally charge separate fees for preparation and submission of EDGAR filings, and they either charge a fee per page of a filing or, for some forms, offer a flat rate per form. Based on the published cost structures of some of the larger third party filers, we estimate that the cost of hiring a third party filer to fill out a single transfer agent form would be in the range of $150 to $200.

The Commission estimates that transfer agents would incur a small amount of ongoing costs with respect to the proposed amendments, such as purchasing upgrades to MS InfoPath™ software and maintaining access to the internet. Additionally, transfer agents would have to have personnel that are familiar with the EDGAR system to file Form TA–2 each year and amendments to Form TA–1 whenever the information on the form becomes inaccurate, misleading, or incomplete.

C. Request for Comment

The Commission requests data to quantify the costs and the benefits above. The Commission seeks estimates of these costs and benefits, as well as any costs and benefits not already described, which could result from the adoption of the proposed amendments to Regulation S–T, Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1 and the proposed amendments to Form TA–1, Form TA–2, and Form TA–W and the instructions to the forms. Specifically, the Commission requests comments regarding the costs related to training personnel to construct forms using EDGARLite and to file in the EDGAR system. Additionally, the Commission requests comments regarding the types of systems upgrades transfer agents could have to make to their computer systems in order to file electronically in EDGAR and the costs of such upgrades. The Commission also requests comments regarding the cost related to developing the transfer agent forms without using MS InfoPath™ and the cost related to hiring a third party to prepare the forms. Finally, The Commission requests commenters to address whether the proposed amendments to Regulation S–T, Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1 and the proposed amendments to Form TA–1, Form TA–2, and Form TA–W and the instructions to the forms would generate the anticipated benefits or impose any unanticipated costs on transfer agents and the public.

VII. Consideration of the Burden on Competition, Promotion of Efficiency, and Capital Formation

Section 3(f) of the Act[41] requires the Commission, whenever it engages in rulemaking and is required to consider or to determine whether an action is necessary or appropriate in the pubic interest, to consider whether the action will promote efficiency, competition, and capital formation. In addition, Section 23(a)(2) of the Act[42] requires the Commission, when promulgating rules under the Act, to consider the impact any such rules would have on competition. Section 23(a)(2) further provides that the Commission may not adopt a rule that would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

A transfer agent is any entity that engages on behalf of an issuer of securities or on behalf of itself as an issuer of securities in (A) countersigning such securities upon issuance; (B) monitoring the issuance of such securities with a view to preventing unauthorized issuance, a function commonly performed by a person called a registrar; (C) registering the transfer of such securities; (D) exchanging or converting such securities; and (E) transferring record ownership of securities by bookkeeping entry without physical issuance of securities certificates.[43] Transfer agents are regulated by the Commission pursuant to Section 17A of the Act. All transfer agents file an annual report with the Commission on Form TA–2. Certain transfer agents file registrations on Form TA–1 and withdrawals from registration on Form TA–W with the Commission. These forms are currently filed with the Commission in paper format.

The proposed amendments to Regulation S–T, Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1 and to Forms TA–1, TA–2, and TA–W and the instructions

[39] The cost per hour is based on the estimated per hour salary of a senior computer operator using the Securities Industry Association's Office Salary Data for 2003, adjusted for inflation.

[40] *See* note 15.

[41] 15 U.S.C. 78c(f).

[42] 15 U.S.C. 78w(a)(2).

[43] 15 U.S.C. 78c(a)(25).

to the forms would require that transfer agent forms be filed electronically using the Commission's EDGAR system. The Commission has designed a new application in EDGAR, EDGARLite, that bundles form templates with a commercial off-the-shelf software package, MS InfoPath,™ to allow filers to easily complete electronic forms for submission to the Commission. However, filers would not be required to use EDGARLite and could submit the information reported on the forms to the Commission in ASCII text characters.[44]

An electronic filing system would eliminate the burdens associated with the paper forms and the possibility of the forms being lost or misdirected. The EDGARLite application would perform data validation checks, which would help to ensure that transfer agents fill the forms out completely and in the appropriate format. It would also provide transfer agents with email notification that a form has been accepted or suspended by the Commission. Accordingly, the proposal to implement the electronic filing system should promote efficiency. The amendments would apply to all transfer agents and the EDGARLite application is intended to be a program that is easy to use at a reasonable cost. Most transfer agents would be able to comply with an electronic filing requirement without difficulty; however, the proposal would allow transfer agents to receive a continuing hardship exemption under Rule 202 of Regulation S–T if the electronic filing requirement would cause undue burden or cost. As a result, the proposal should not adversely impact a transfer agent's ability to file transfer agent forms and, accordingly, should not have an adverse impact on competition. The proposal would not affect the operations of transfer agents and it would not materially change the information that is required to be reported to the Commission on the forms. The proposal would change the filing method of the forms from paper format to electronic format. Accordingly, the proposal should not have an impact on capital formation.

The Commission generally requests comment on the competitive or anticompetitive effects of these amendments to Regulation S–T, Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1 and to Form TA–1, Form TA–2, and Form TA–W on any transfer agents if adopted as proposed. The Commission also requests comment on what impact the amendments, if adopted, would have on efficiency and capital formation. Commenters should provide analysis and empirical data to support their views on the costs and benefits associated with the proposal.

VIII. Initial Regulatory Flexibility Analysis

Section 3(a) of the Regulatory Flexibility Act of 1980[45] requires the Commission to undertake an initial regulatory flexibility analysis of the proposed rule on small entities unless the Commission certifies that the rule, if adopted, would not have a significant economic impact on a substantial number of small entities.[46] The Commission has prepared an Initial Regulatory Flexibility Analysis (''IRFA'') pursuant to the Regulatory Flexibility Act regarding the proposed amendments to Regulation S–T, Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1 and to Form TA–1, Form TA–2, and Form TA–W and the instructions to the forms.

The IRFA prepared by the Commission states that the purpose of the proposal to establish an electronic filing system for transfer agent forms is to improve the efficiency of the filing process for transfer agents and the public dissemination of the information on the forms. An electronic filing system would eliminate the burdens associated with paper forms and streamline the filing process. It would help to ensure that transfer agents fill the forms out completely and in the appropriate format. It would also provide transfer agents with email notification that a form has been accepted or suspended by the Commission.

The IRFA sets forth the statutory authority for the proposed amendments to Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1 and to Regulation S–T, Form TA–1, Form TA–2, and Form TA–W and the instructions to the forms. The IRFA also discusses the effect of the proposal on transfer agents that are small entities under Rule 0–10(h) under the Act.[47] Rule 0–10(h) defines the term ''small business'' or ''small organization'' to include any transfer agent that (1) received less than 500 items for transfer and less than 500 items for processing during the preceding six months (or in the time that it has been in business, if shorter); (2) transferred items only of issuers that would be deemed ''small businesses'' or ''small organizations'' as defined in this section; and (3) maintained master shareholder files that in the aggregate contained less than 1,000 shareholder accounts or was the named transfer agent for less than 1,000 shareholder accounts at all times during the preceding fiscal year (or the time that it has been in business, if shorter); and (4) is not affiliated with any person, other than a natural person, that is not a small business or small organization under Rule 0–10.

The Commission estimates that there are 310 registered transfer agents that are ''small entities'' under Rule 0–10. Of these, 170 are registered with the Commission and 140 are registered with the other ARAs.

The proposed amendments would require that all transfer agents apply for access to the EDGAR system and file all transfer agent forms that they file with the Commission electronically in EDGAR. Transfer agents would be expected, but not required, to complete the electronic forms by using the EDGARLite application. All transfer agents filing electronically would need to have a computer system that meets the EDGAR software and hardware requirements. Additionally, all transfer agents that have previously filed a Form TA–1 with the Commission would have to file an amended Form TA–1 electronically, of which approximately 170 are small entities within the definition in Rule 0–10. The IRFA states that the incremental burden on all ''small entities'' would be approximately 960 hours and $30,240. The IRFA also states that the proposed amendments would not impose any other reporting, recordkeeping, or compliance requirements, and that the Commission believes that there are no rules that duplicate, overlap, or conflict with the proposed amendments.

The IRFA discusses the alternatives considered by the Commission in connection with the proposed amendments to Regulation S–T, Rules 17Ac2–1, 17Ac2–2, and 17Ac3–1 and to Form TA–1, TA–2, and TA–W and the instructions to the forms. The purpose of electronic filing is to have all filings required to be filed with the Commission received in a timely and efficient manner and for the data filed on the forms to be stored in a single, centralized database. Any forms filed on paper could be subject to loss, inaccuracies, and delayed reporting, which would affect the integrity of the database and affect the Commission's ability to perform its oversight role with respect to transfer agents. Accordingly, we have determined that it would not be appropriate to allow any transfer agents to continue to file the forms in paper form unless the Commission were to grant the transfer agent a continuing hardship exemption under Rule 202 of Regulation S–T.

[44] *See* note 15.

[45] 5 U.S.C. 603(a).

[46] 5 U.S.C. 605(b).

[47] 17 CFR 240.0–10(h).

As an alternative to creating the electronic forms in EDGARLite, which would require the filer to purchase MS InfoPath™ software, transfer agents or a third party could prepare the forms outside of EDGARLite by creating an XML tagged version of the filing as an ASCII document using technical specifications that would be available on the Commission's public Web site.[48] It should be noted that this filing method would require some technical expertise on the part of the filer and the Commission does not anticipate that any transfer agents or third parties would find it worth the cost savings to develop the transfer agent forms outside of EDGARLite.

The Commission also considered whether entities could file the forms with the Commission by using public computer services, such as an internet cafe or a public library, and therefore avoid the expense of any required hardware, software, or internet access. Commission staff contacted public computer service providers in 2004 and determined that it was unlikely that these facilities would have the necessary MS Infopath™ software requirement for using the EDGARLite templates. However, transfer agents would be free to use a public facility if the facility has the necessary computer system requirements. Additionally, filers could prepare their filings by creating an ASCII document as described above, which should be possible on many public computer service facilities.

Finally, the Commission could grant a transfer agent a continuing hardship exemption from the electronic filing requirement under Rule 202 of Regulation S–T if the transfer agent demonstrates that the electronic filing requirement would cause it undue burden or expense. A transfer agent that was granted such an exemption would continue to file the forms in paper and thus would not be economically impacted by the electronic filing requirement.

The Commission encourages the submission of written comments with respect to any aspect of the IRFA. Comments should specify costs of compliance with the proposed amendments. For purposes of the Small Business Regulatory Enforcement Fairness Act of 1996,[49] the Commission is also requesting information regarding the potential impact of the proposed rule on the economy on an annual basis. Commenters should provide empirical data to support their views.

IX. Statutory Basis and Text of the Proposed Amendments

The amendments to Regulation S–T under the Securities Act of 1933, Rule 17Ac2–1, Rule 17Ac2–2, and Rule 17Ac3–1, and Forms TA–1, TA–2, and TA–W under the Act are being proposed pursuant to Section 19(a) of the Securities Act and Sections 17, 17A, and 23(a) of the Act.

Text of Proposed Rule Amendments

List of Subjects in 17 CFR Parts 232, 239, 240, 249, 249b, 269, and 274

Reporting and recordkeeping requirements, Securities.

Text of Amendment

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 232—REGULATION S–T—GENERAL RULES AND REGULATIONS FOR ELECTRONIC FILINGS

1. The general authority citation for part 232 is revised to read as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a), 77sss(a), 78c(b), 78*l*, 78m, 78n, 78o(d), 78w(a), 78*ll*(d), 80a–8, 80a–29, 80a–30, 80a–37, and 7201 *et seq.*; and 18 U.S.C. 1350.

* * * * *

2. Amend § 232.101 by:

a. Removing the word ''and'' at the end of paragraph (a)(1)(x);

b. Removing the period at the end of paragraph (a)(1)(xi) and adding ''; and''; and

c. Adding paragraph (a)(1)(xii).

The addition reads as follows.

§ 232.101 Mandated electronic submissions and exceptions.

(a) * * *

(1) * * *

(xii) Form TA–1 (§ 249.100 of this chapter), Form TA–2 (§ 249.102 of this chapter), and Form TA–W (§ 249.101 of this chapter).

* * * * *

3. Revise § 232.104 paragraph (a) to read as follows.

§ 232.104 Unofficial PDF copies included in an electronic submission.

(a) An electronic submission, other than a Form 3 (§ 249.103 of this chapter), a Form 4 (§ 249.104 of this chapter), a Form 5 (§ 249.105 of this chapter), a Form ID (§§ 239.63, 249.446, 269.7 and 274.402 of this chapter), a Form TA–1 (§ 249.100 of this chapter), a Form TA–2 (§ 249.102 of this chapter), or a Form TA–W (§ 249.101 of this chapter), may include one unofficial PDF copy of each electronic document contained within that submission, tagged in the format required by the EDGAR Filer Manual.

* * * * *

4. Section 232.201 is amended by revising the introductory text of paragraph (a) to read as follows.

§ 232.201 Temporary hardship exemption.

(a) If an electronic filer experiences unanticipated technical difficulties preventing the timely preparation and submission of an electronic filing other than a Form 3 (§ 249.103 of this chapter), a Form 4 (§ 249.104 of this chapter), a Form 5 (§ 249.105 of this chapter), a Form ID (§§ 239.63, 249.446, 269.7 and 274.402 of this chapter), a Form TA–1 (§ 249.100 of this chapter), a Form TA–2 (§ 249.102 of this chapter), or a Form TA–W (§ 249.101 of this chapter), the electronic filer may file the subject filing, under cover of Form TH (§§ 239.65, 249.447, 269.10 and 274.404 of this chapter), in paper format no later than one business day after the date on which the filing was to be made.

* * * * *

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

5. The general authority citation for part 239 is revised to read as follows.

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 77z–2, 77z–3, 77sss, 78c, 78*l*, 78m, 78n, 78o(d), 78u–5, 78w(a), 78*ll*(d), 78mm, 80a–2(a), 80a–3, 80a–8, 80a–9, 80a–10, 80a–13, 80a–24, 80a–26, 80a–29, 80a–30, and 80–37, unless otherwise noted.

* * * * *

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

6. The general authority citation for part 240 is revised to read as follows.

Authority: 15 U.S.C. 77c, 77d, 77g, 77j, 77s, 77z–2, 77z–3, 77eee, 77ggg, 77nnn, 77sss, 77ttt, 78c, 78d, 78e, 78f, 78g, 78i, 78j, 78j–1, 78k, 78k–1, 78*l*, 78m, 78n, 78o, 78p, 78q, 78s, 78u–5, 78w, 78x, 78*ll*(d), 78mm, 80a–20, 80a–23, 80a–29, 80a–37, 80b–3, 80b–4, 80b–11, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

7. Amend § 240.17Ac2–1 by:

a. Revising paragraph (c);

b. Redesignating paragraph (d) as paragraph (e); and

c. Adding new paragraph (d).

The revision and addition reads as follows.

§ 240.17Ac2–1 Application for registration of transfer agents.

* * * * *

[48] *See* note 15.

[49] Pub. L. 104–121, Title II, 110 Stat. 857 (1996).

(c) If any of the information reported on Form TA–1 (§ 249b.100 of this chapter) becomes inaccurate, misleading, or incomplete, the registrant shall correct the information by filing an amendment within sixty days following the date on which the information becomes inaccurate, misleading, or incomplete.

(d) Every registration and amendment filed pursuant to this section shall be filed with the Commission electronically in the Commission's EDGAR system. Transfer agents should refer to Form TA–1 and the instructions to the form (§ 249b.100 of this chapter) and to the EDGAR Filer Manual (§ 232.301 of this chapter) for the technical requirements and instructions for electronic filing. Transfer agents that have previously filed a Form TA–1 with the Commission must refile the information on their Form TA–1, as amended, in electronic format in EDGAR as an amended Form TA–1.

* * * * *

8. Amend § 240.17Ac2–2 by:

a. Adding two sentences to the end of the introductory text of paragraph (a); and

b. Revising paragraph (c).

The addition and revision reads as follows.

§ 240.17Ac2–2 Annual reporting requirement for registered transfer agents.

(a) * * * A transfer agent may file an amendment to Form TA–2 pursuant to the instructions on the form to correct information that has become inaccurate, incomplete, or misleading. A transfer agent may file an amendment at any time; however, in order to be timely filed, all required portions of the form must be completed and filed in accordance with this section and the instructions to the form by the date the form is required to be filed with the Commission.

* * * * *

(c) Every annual report and amendment filed pursuant to this section shall be filed with the Commission electronically in the Commission's EDGAR system. Transfer agents should refer to Form TA–2 and the instructions to the form (§ 249b.102 of this chapter) and the EDGAR Filer Manual (§ 232.301 of this chapter) for further information regarding electronic filing. Every registered transfer agent must file an electronic Form TA–1 with the Commission, or an electronic amendment to its Form TA–1 if the transfer agent previously filed a paper Form TA–1 with the Commission, before it may file an electronic Form TA–2 or Form TA–W with the Commission.

9. Amend § 240.17Ac3–1 by:

a. Removing the authority citations at the end of the section;

b. Removing from paragraph (a) and the first sentence of paragraph (b) the term ''17A(c)(3)(C)'' and in its place adding ''17A(c)(4)'';

c. Removing from paragraph (b) the term ''17A(c)(3)(A)'' and in its place adding ''17A(c)(3)'';

d. Redesignating paragraph (c) as paragraph (d); and

e. Adding new paragraph (c).

The addition reads as follows.

§ 240.17Ac3–1 Withdrawal from registration with the Commission.

* * * * *

(c) Every withdrawal from registration filed pursuant to this section shall be filed with the Commission electronically in the Commission's EDGAR system. Transfer agents should refer to Form TA–W and the instructions to the form (§ 249b.101 of this chapter) and the EDGAR Filer Manual (§ 232.301 of this chapter) for further information regarding electronic filing.

* * * * *

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

10. The authority citation for Part 249 continues to read in part as follows.

Authority: 15 U.S.C. 78a *et seq.*, and 7201 *et seq.*; and 18 U.S.C. 1350, unless otherwise noted.

* * * * *

PART 249b—FURTHER FORMS, SECURITIES EXCHANGE ACT OF 1934

11. The authority citation for Part 249b continues to read in part as follows.

Authority: 15 U.S.C. 78a *et seq.*, unless otherwise noted.

* * * * *

12. Form TA–1 (referenced in § 249b.100), Form TA–W (referenced in § 249b.101), and Form TA–2 (referenced in § 249b.102) are revised to read as set forth in the attached Appendices B, C, and D.

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

13. The authority citation for Part 269 continues to read as follows:

Authority: 15 U.S.C. 77ddd(c), 77eee, 77ggg, 77hhh, 77iii, 77jjj, 77sss, 78*ll*(d), unless otherwise noted.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

PART 269—FORMS PRESCRIBED UNDER THE TRUST INDENTURE ACT OF 1939

PART 274—FORMS PRESCRIBED UNDER THE INVESTMENT COMPANY ACT OF 1940

14. The authority citation for Part 274 continues to read in part as follows:

Authority: 15 U.S.C. 77f, 77g, 77h, 77j, 77s, 78c(b), 78*l*, 78m, 78n, 78o(d), 80a–8, 80a–24, 80a–26, and 80a–29, unless otherwise noted.

* * * * *

15. Form ID (referenced in § 239.63, § 249.446, § 269.7, and § 274.402) is revised as set forth in Appendix A.

Dated: August 24, 2006.

By the Commission.

Nancy M. Morris,

Secretary.

Note: The following Appendices A, B, C, and D will not appear in the Code of Federal Regulations.

BILLING CODE 8010–01–P

APPENDIX A

United States
Securities and Exchange Commission
Washington, D.C. 20549

OMB APPROVAL
OMB Number: 3235-0328
Expires: April 30, 2009
Estimated average burden hours per response: . .0.15

FORM ID

UNIFORM APPLICATION FOR ACCESS CODES TO FILE ON EDGAR

PART I — APPLICATION FOR ACCESS CODES TO FILE ON EDGAR

Name of applicant (applicant's name as specified in its charter, except, if individual, last name, first name, middle name, suffix (e.g., "Jr.")

Mailing Address or Post Office Box No.

City State or Country Zip

Telephone number (Include Area and, if Foreign, Country Code) ( )

Applicant is (see definitions in the General Instructions)

☐ Filer ☐ Filing Agent ☐ Training Agent ☐ Transfer Agent ☐ Individual (if you check this box, you must also check either Filer, Filing Agent, Training Agent or Transfer Agent box)

PART II — FILER INFORMATION (To be completed only by filers that are not individuals)

Filer's Tax Number or Federal Identification Number (Do Not Enter a Social Security Number)

Doing Business As

Foreign Name (if Foreign Issuer Filer and applicable)

Primary Business Address or Post Office Box No. (if different from mailing address)

City State or County Zip

State of Incorporation Fiscal Year End (mm/yy)

PART III — CONTACT INFORMATION (To be completed by all applicants)

Person to receive EDGAR Information, Inquiries and Access Codes

Telephone Number (Include Area and, if foreign, Country Code) ( )

Mailing Address or Post Office Box No. (if different from applicant's mailing address)

City State or Country Zip

E-Mail Address

PART IV — ACCOUNT INFORMATION (To be completed by filers and filing agents only)

Person to receive SEC Account Information and Billing Invoices

Telephone Number (Include Area and, if Foreign, Country Code) ( )

Mailing Address or Post Office Box No. (if different from applicant's mailing address)

City State or Country Zip

PART V — SIGNATURE (To be Completed by all Applicants)

Signature: Type or Print Name:

Position or Title: Date:

Intentional misstatements or omissions of facts constitute federal criminal violations. See 18 U.S.C. 1001.

Section 19(a) of the Securities Act of 1933 (15 U.S.C. 77s(a)), sections 13(a) and 23(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a) and 78w(a)), section 319 of the Trust

Indenture Act of 1939 (15 U.S.C. 77sss), and sections 30 and 38 of the Investment Company Act of 1940 (15 U.S.C. 80a-29 and 80a-37) authorize solicitation of this information. We will use this information to assign system identification to filers, filing agents, and training agents. This will allow the Commission to identify persons sending electronic submissions and grant secure access to the EDGAR system.

SEC 2084 (05-06)
Previous form obsolete

Persons who potentially are to respond to the collection of information contained in this form are not required to respond unless the form displays a currently valid OMB control number.

FORM ID
GENERAL INSTRUCTIONS

USING AND PREPARING FORM ID

Form ID must be filed by registrants, third party filers, or their agents, to whom the Commission previously has not assigned a Central Index Key (CIK) code, to request the following access codes to permit filing on EDGAR:

- Central Index Key (CIK) - The CIK uniquely identifies each filer, filing agent, and training agent. We assign the CIK at the time you make an initial application. You may not change this code. The CIK is a public number.
- CIK Confirmation Code (CCC) - You will use the CCC in the header of your filings in conjunction with your CIK to ensure that you authorized the filing.

• Password (PW) - The PW allows you to log onto the EDGAR system, submit filings, and change your CCC.

• Password Modification Authorization Code (PMAC) - The PMAC allows you to change your password.

An applicant must file this Form in electronic format via the Commission's EDGAR Filer Management Web site. Please see Regulation S-T (17 CFR Part 232) and the EDGAR Filer Manual for instructions on how to file electronically, including how to use the access codes.

An applicant also must file in paper by fax within two business days before or after filing electronically Form ID the notarized document, manually signed by the applicant over the applicant's typed signature, required by Regulation S-T Rule 10(b)(2) that includes the information contained in the Form ID filed or to be filed, confirms the authenticity of the Form ID and, if filed after electronically filing the Form ID, includes the accession number assigned to the electronically filed Form ID as a result of its filing. The applicant must fax the authenticating document to the Branch of Filer Support of the Office of Filings and Information Services at (202) 504-2474 or (703) 914-4240. If the fax is not received timely, the application for access codes will not be processed. The applicant will receive an e-mail message at the contact's e-mail address informing the applicant of the staff's response to the application and providing further guidance. If the application is not processed, the message will state why.

For assistance with technical questions about electronic filing, call the Branch of Filer Support at (202) 551-8900 or see the EDGAR Filer Manual Volume I, Section 2.6, Getting Help with EDGAR.

You must complete all items in any parts that apply to you. If any item in any part does not apply to you, please leave it blank.

PART I - APPLICANT INFORMATION (to be completed by all applicants)

Provide the applicant's name in English.

Please check one of the boxes to indicate whether you will be sending electronic submissions as a filer, filing agent, or training agent. Mark only one of these boxes per application. If you are an individual, however, also mark the "Individual" box.

- "Filer" - Any individual or entity on whose behalf an electronic filing is made.
- "Filing Agent" - A financial printer, law firm, or other party, which will be using these access codes to send a filing or portion of a filing on behalf of a filer.
- "Training Agent" - Any individual or entity that will be sending only test filings in conjunction with training other persons.
- "Transfer Agent" - Any individual or entity planning to register as a Transfer Agent on whose behalf an electronic filing is made.
- "Individual" – A natural person.

PART II - FILER INFORMATION (to be completed only by filers that are not individuals)

The filer's tax or federal identification number is the number issued by the Internal Revenue Service. This section does not apply to individuals. Accordingly, do not enter a Social Security number. If an investment company filer is organized as a series company, the investment company may use the tax or federal identification number of any one of its constituent series. Issuers that have applied for but not yet received their tax or federal identification number and foreign issuers that do not have a tax or federal identification number must include all zeroes. A "foreign issuer" is an entity so defined by the Securities

Act of 1933 (15 U.S.C. 77a et seq.) Rule 405 (17 CFR 230.405) and the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) Rule 3b-4(b) (17 CFR 240.3b-4(b)). Foreign issuers should include their country of organization.

A foreign issuer filer must provide its "doing business as" name in the language of the name under which it does business and must provide its foreign language name, if any, in the space so marked.

If the filer's fiscal year does not end on the same date each year (e.g., falls on the last Saturday in December), the filer must enter the date the current fiscal year will end.

PART III - CONTACT INFORMATION (to be completed by all applicants)

In this section, identify the individual who should receive the access codes and other EDGAR-related information. Please include an e-mail address that will become your default notification address for EDGAR filings; it will be stored in the Company Contact Information on the EDGAR Database. EDGAR will send all subsequent filing notifications automatically to that address. You can have one e-mail address in the EDGAR Company Contact Information. For information on including additional e-mail addresses on a per filing basis, refer to Volume 1, Section 3.2.2 of the EDGAR Filer Manual.

PART IV - ACCOUNT INFORMATION (to be completed by filers and filing agents only)

Identify in this section the individual who should receive account information and/or billing invoices from us. We will use this information to process electronically fee payments and billings. If the address changes, update it via the EDGAR filing Web site, or your account statements may be returned to us as undeliverable.

PART V - SIGNATURE (to be completed by all applicants)

If the applicant is a corporation, partnership, trust or other entity, state the capacity in which the representative individual, who must be duly authorized, signs the Form on behalf of the applicant.

If the applicant is an individual, the applicant must sign the Form.

If another person signs on behalf of the representative individual or the individual applicant, confirm the authority of the other person to sign in writing in an electronic attachment to the Form. The confirming statement need only indicate that the representative individual or individual applicant authorizes and designates the named person or persons to file the Form on behalf of the applicant and state the duration of the authorization.

APPENDIX B

OMB Approval
OMB Number: 3235-0084
Expires: June 30, 2009
Estimated average burden hours per response 2.00

UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

FORM TA-1

UNIFORM FORM FOR REGISTRATION AS A TRANSFER AGENT AND FOR AMENDMENT TO REGISTRATION PURSUANT TO SECTION 17A OF THE SECURITIES EXCHANGE ACT OF 1934

GENERAL: Form TA-1 is to be used to register or amend registration as a transfer agent with the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation or the Securities and Exchange Commission pursuant to Section 17A of the Securities Exchange Act of 1934.
Read all instructions before completing this form. Please print or type all responses.

Form Version: 1.0.0 ☑Check to show blank form for printing

1(a). Filer CIK: **1(b).**Filer CCC:

1(c). Live/Test Filing? ○ Live ○ Test

1(d). Return Copy ☐ Yes

1(e). Is this filing an amendment to a previous filing? ☐ Yes

1(e)(i). File Number: 084 -

1(f)(i). Contact Name: **1(f)(ii).** Contact Phone Number: **1(f)(iii).** Contact E-mail Address:

1(g). Notification E-mail Address:

2. Appropriate regulatory agency (check one):

⊙ Securities and Exchange Commission
○ Board of Governors of the Federal Reserve System
○ Federal Deposit Insurance Corporation
○ Comptroller of the Currency

3(a). Full Name of Registrant:

3(a)(i). Previous name, if being amended:

3(b). Financial Industry Number Standard (FINS) number:

3(c). Address of principal office where transfer agent activities are, or will be, performed:

3(c)(i). Address 1

3(c)(ii). Address 2

3(c)(iii). City

3(c)(iv). State or Country

3(c)(v). Postal Code

3(d). Is mailing address different from response to Question 3(c)? Yes ○ No ○

If "yes," provide address(es):

3(d)(i). Address 1

3(d)(ii). Address 2

3(d)(iii). City

3(d)(iv). State or Country

3(d)(v). Postal Code

3(e). Telephone Number (Include Area Code)

	Yes	No
4. Does registrant conduct, or will it conduct, transfer agent activities at any location other than that given in Question 3(c) above?	○	○

If "yes," provide address(es):

4(a)(i). Address #1

4(a)(ii). Address #2

4(a)(iii). City

4(a)(iv). State or Country

4(a)(v). Postal Code

	Yes	No
5. Does registrant act, or will it act, as a transfer agent solely for its own securities and/or securities of an affiliate(s)?	○	○

	Yes	No
6. Has registrant, as a named transfer agent, engaged, or will it engage, a service company to perform any transfer agent functions?	○	○

If "yes," provide the name(s) and address(es) of all service companies engaged, or that will be engaged, by the registrant to perform its transfer agent functions:

6(a). Name:

6(b). File Number: -

6(c)(i). Address 1

6(c)(ii). Address 2

6(c)(iii). City

6(c)(iv). State or Country

6(c)(v). Postal Code

7. Has registrant been engaged, or will it be engaged, as a service company by a named transfer agent to perform transfer agent functions? Yes ○ No ○

If "yes," provide the name(s) and File Number(s) of the named transfer agent(s) for which the registrant has been engaged, or will be engaged, as a service company to perform transfer agent functions:

7(a). Name:

7(b). File Number: -

7(c)(i). Address 1

7(c)(ii). Address 2

7(c)(iii). City

7(c)(iv). State or Country

7(c)(v). Postal Code

Completion of Question 8 on this form is required by all independent, non-issuer registrants whose appropriate regulatory authority is the Securities and Exchange Commission. Those registrants who are not required to complete Question 8 should select "Not Applicable."

8. Is registrant a:

- ○ Corporation
- ○ Partnership
- ○ Sole Proprietorship
- ○ Other
- ○ Not Applicable

Section for Initial Registration and for Amendments Reporting Additional Persons. (Corporation or Partnership)

8(a)(i). Full Name

8(a)(ii). Relationship Start Date

8(a)(iii). Title or Status

8(a)(iv). Ownership Code

- ○ NA - 0 to 5%
- ○ A - 5% up to 10%
- ○ B - 10% up to 25%
- ○ C - 25% up to 50%
- ○ D - 50% up to 75%
- ○ E - 75% up to 100%

8(a)(v). Control Person ☐

8(a)(vi). Relationship End Date

Section for Initial Registration and for Amendments Reporting Additional Persons. (Sole Proprietorship or Other)

8(a)(i). Full Name

8(a)(ii). Relationship Start Date

8(a)(iii). Title or Status

8(a)(iv). Description of Authority

8(a)(v). Relationship End Date

9. Does any person or entity not named in the answer to Question 8:

	Yes	No
9(a). directly or indirectly, through agreement or otherwise exercise or have the power to exercise control over the management or policies of applicant; or	○	○

9(a)(i). Exact name of each person or entity

9(a)(ii). Description of the Agreement or other basis

	Yes	No
9(b). wholly or partially finance the business of applicant, directly or indirectly, in any manner other than by a public offering of securities made pursuant to the Securities Act of 1933 or by credit extended in the ordinary course of business by suppliers, banks and others ?	○	○

9(b)(i). Exact name of each person or entity

9(b)(ii). Description of the Agreement or other basis

10. Applicant and Control Affiliate Disciplinary History:

The following definitions apply for purposes of answering this Question 10

Control affiliate	- An individual or firm that directly or indirectly controls, is under common control with, or is controlled by applicant. Included are any employees identified in 8(a), 8(b), 8(c) of this form as exercising control. Excluded are any employees who perform solely clerical, administrative support of similar functions, or who, regardless of title, perform no executive duties or have no senior policy making authority.
Investment or investment related	- Pertaining to securities, commodities, banking, insurance, or real estate (including, but not limited to, acting as or being associated with a broker-dealer, investment company, investment adviser, futures sponsor, bank, or savings and loan association).
Involved	- Doing an act of aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act.

10(a). In the past ten years has the applicant or a control affiliate been convicted of or plead guilty or nolo contender ("no contest") to:

	Yes	No
10(a)(1). a felony or misdemeanor involving: investments or an investment-related business, fraud, false statements or omissions, wrongful taking of property, or bribery, forgery, counterfeiting or extortion?	O	O

10(a)(1)(i). The individuals named in the Action

10(a)(1)(ii). Title of Action

10(a)(1)(iii). Date of Action

10(a)(1)(iv). The Court or body taking the Action and its location

10(a)(1)(v). Description of the Action

10(a)(1)(vi). The disposition of the proceeding

10(a)(2). any other felony? . . . . . Yes ○ No ○

10(a)(2)(i). The individuals named in the Action

10(a)(2)(ii). Title of Action

10(a)(2)(iii). Date of Action

10(a)(2)(iv). The Court or body taking the Action and its location

10(a)(2)(v). Description of the Action

10(a)(2)(vi). The disposition of the proceeding

10(b). Has any court in the past ten years:

10(b)(1). enjoined the applicant or a control affiliate in connection with any investment-related activity? . . . . . Yes ○ No ○

10(b)(1)(i). The individuals named in the Action

10(b)(1)(ii). Title of Action

10(b)(1)(iii). Date of Action

10(b)(1)(iv). The Court or body taking the Action and its location

10(b)(1)(v). Description of the Action

10(b)(1)(vi). The disposition of the proceeding

10(b)(2). found that the applicant or a control affiliate was involved in a violation of investment-related statutes or regulations? . . . . . Yes ○ No ○

10(b)(2)(i). The individuals named in the Action

10(b)(2)(ii). Title of Action

10(b)(2)(iii). Date of Action

10(b)(2)(iv). The Court or body taking the Action and its location

10(b)(2)(v). Description of the Action

10(b)(2)(vi). The disposition of the proceeding

10(c). Has the U.S. Securities and Exchange Commission or the Commodity Futures Trading Commission ever:

10(c)(1). found the applicant or a control affiliate to have made a false statement or omission? . . . . . Yes ○ No ○

10(c)(1)(i). The individuals named in the Action

10(c)(1)(ii). Title of Action

10(c)(1)(iii). Date of Action

10(c)(1)(iv). The Court or body taking the Action and its location

10(c)(1)(v). Description of the Action

10(c)(1)(vi). The disposition of the proceeding

10(c)(2). found the applicant or a control affiliate to have been involved in a violation of its regulations or statutes? . . . . . Yes ○ No ○

10(c)(2)(i). The individuals named in the Action

10(c)(2)(ii). Title of Action

10(c)(2)(iii). Date of Action

10(c)(2)(iv). The Court or body taking the Action and its location

10(c)(2)(v). Description of the Action

10(c)(2)(vi). The disposition of the proceeding

10(c)(3). found the applicant or a control affiliate to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked or restricted? . . . . . Yes ○ No ○

10(c)(3)(i). The individuals named in the Action

10(c)(3)(ii). Title of Action

10(c)(3)(iii). Date of Action

10(c)(3)(iv). The Court or body taking the Action and its location

10(c)(3)(v). Description of the Action

10(c)(3)(vi). The disposition of the proceeding

10(c)(4). entered an order denying, suspending or revoking the applicant's or a control affiliate's registration or otherwise disciplined it by restricting its activities? . . . . . Yes ○ No ○

10(c)(4)(i). The individuals named in the Action

10(c)(4)(ii). Title of Action

10(c)(4)(iii). Date of Action

10(c)(4)(iv). The Court or body taking the Action and its location

10(c)(4)(v). Description of the Action

10(c)(4)(vi). The disposition of the proceeding

10(d). Has any other Federal regulatory agency or any state regulatory agency:

10(d)(1). ever found the applicant or a control affiliate to have made a false statement or omission or to have been dishonest, unfair, or unethical? . . . . . Yes ○ No ○

10(d)(1)(i). The individuals named in the Action

10(d)(1)(ii). Title of Action

10(d)(1)(iii). Date of Action

10(d)(1)(iv). The Court or body taking the Action and its location

10(d)(1)(v). Description of the Action

10(d)(1)(vi). The disposition of the proceeding

10(d)(2). ever found the applicant or a control affiliate to have been involved in a violation of investment-related regulations or statutes? . . . . . Yes ○ No ○

10(d)(2)(i). The individuals named in the Action

10(d)(2)(ii). Title of Action

10(d)(2)(iii). Date of Action

10(d)(2)(iv). The Court or body taking the Action and its location

10(d)(2)(v). Description of the Action

10(d)(2)(vi). The disposition of the proceeding

	Yes	No
10(d)(3). ever found the applicant or a control affiliate to have been a cause of an investment-related business having its authorization to do business denied, suspended, revoked, or restricted?	○	○

10(d)(3)(i). The individuals named in the Action

10(d)(3)(ii). Title of Action

10(d)(3)(iii). Date of Action

10(d)(3)(iv). The Court or body taking the Action and its location

10(d)(3)(v). Description of the Action

10(d)(3)(vi). The disposition of the proceeding

	Yes	No
10(d)(4). in the past ten years entered an order against the applicant or a control affiliate in connection with investment-related activity?	○	○

10(d)(4)(i). The individuals named in the Action

10(d)(4)(ii). Title of Action

10(d)(4)(iii). Date of Action

10(d)(4)(iv). The Court or body taking the Action and its location

10(d)(4)(v). Description of the Action

10(d)(4)(vi). The disposition of the proceeding

10(d)(5). ever denied, suspended, or revoked the applicant's or a control affiliate's registration or license, or prevented it from associating with an investment-related business, or otherwise disciplined it by restricting its activities? . . . . . Yes ○ No ○

10(d)(5)(i). The individuals named in the Action

10(d)(5)(ii). Title of Action

10(d)(5)(iii). Date of Action

10(d)(5)(iv). The Court or body taking the Action and its location

10(d)(5)(v). Description of the Action

10(d)(5)(vi). The disposition of the proceeding

10(d)(6). ever revoked or suspended the applicant's or a control affiliate's license as an attorney or accountant? . . . . . Yes ○ No ○

10(d)(6)(i). The individuals named in the Action

10(d)(6)(ii). Title of Action

10(d)(6)(iii). Date of Action

10(d)(6)(iv). The Court or body taking the Action and its location

10(d)(6)(v). Description of the Action

10(d)(6)(vi). The disposition of the proceeding

10(e). Has any self-regulatory organization or commodities exchange ever:

10(e)(1). found the applicant or a control affiliate to have made a Yes No

10(e)(1)(i). The individuals named in the Action

10(e)(1)(ii). Title of Action

10(e)(1)(iii). Date of Action

10(e)(1)(iv). The Court or body taking the Action and its location

10(e)(1)(v). Description of the Action

10(e)(1)(vi). The disposition of the proceeding

10(e)(2). found the applicant or a control affiliate to have been — Yes ○ No ○

10(e)(2)(i). The individuals named in the Action

10(e)(2)(ii). Title of Action

10(e)(2)(iii). Date of Action

10(e)(2)(iv). The Court or body taking the Action and its location

10(e)(2)(v). Description of the Action

10(e)(2)(vi). The disposition of the proceeding

10(e)(3). found the applicant or a control affiliate to have been the cause of an investment-related business losing its authorization to do business? . . . . . — Yes ○ No ○

10(e)(3)(i). The individuals named in the Action

10(e)(3)(ii). Title of Action

10(e)(3)(iii). Date of Action

10(e)(3)(iv). The Court or body taking the Action and its location

10(e)(3)(v). Description of the Action

10(e)(3)(vi). The disposition of the proceeding

	Yes	No
10(e)(4). disciplined the applicant or a control affiliate by expelling or suspending it from membership, by barring or suspending its association with other members, or by otherwise restricting its activities?	○	○

10(e)(4)(i). The individuals named in the Action

10(e)(4)(ii). Title of Action	**10(e)(4)(iii).** Date of Action

10(e)(4)(iv). The Court or body taking the Action and its location

10(e)(4)(v). Description of the Action

10(e)(4)(vi). The disposition of the proceeding

	Yes	No
10(f). Has any foreign government, court, regulatory agency, or exchange ever entered an order against the applicant or a control affiliate related to investments or fraud?	○	○

10(f)(1)(i). The individuals named in the Action

10(f)(1)(ii). Title of Action	**10(f)(1)(iii).** Date of Action

10(f)(1)(iv). The Court or body taking the Action and its location

10(f)(1)(v). Description of the Action

10(f)(1)(vi). The disposition of the proceeding

	Yes	No
10(g). Is the applicant or a control affiliate now the subject of any proceeding that could result in a yes answer to questions 10(a) - 10(f)?	○	○

10(g)(1)(i). The individuals named in the Action

10(g)(1)(ii). Title of Action	**10(g)(1)(iii).** Date of Action

10(g)(1)(iv). The Court or body taking the Action and its location

10(g)(1)(v). Description of the Action

10(g)(1)(vi). The disposition of the Proceeding

10(h). Has a bonding company denied, paid out on, or revoked a bond for the applicant or a control affiliate? . . . . . Yes ○ No ○

10(h)(1)(i). The individuals named in the Action

10(h)(1)(ii). Title of Action

10(h)(1)(iii). Date of Action

10(h)(1)(iv). The Court or body taking the Action and its location

10(h)(1)(v). Description of the Action

10(h)(1)(vi). The disposition of the Proceeding

10(i). Does the applicant or a control affiliate have any unsatisfied judgments or liens against it? . . . . . Yes ○ No ○

10(i)(1)(i). The individuals named in the Action

10(i)(1)(ii). Title of Action

10(i)(1)(iii). Date of Action

10(i)(1)(iv). The Court or body taking the Action and its location

10(i)(1)(v). Description of the Action

10(i)(1)(vi). The disposition of the proceeding

ATTENTION: INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a)

SIGNATURE: The registrant submitting this form, and as required, the SEC supplement and Schedules A-D,
And the executing official hereby represent that all the information contained herein is true, correct and complete.

11(a). Signature of Official responsible for Form:	**11(b).** Telephone Number:
11(c). Title of Signing Officer:	**11(d).** Date Signed (Month/Day/Year):

12. Related Documents/Attachments

12(a). File Name:	
12(b). Type of Attachment:	○ COVER ○ CORRESP ○ GRAPHIC
12(c). Type of Attachment Additional Description:	
12(d). Attachment Description:	
12(e). File:	

BILLING CODE 8010–01–C

UNITED STATES

Securities and Exchange Commission

Washington, DC 20549

Instructions for Use of Form TA–1

Application for Registration and Amendment to Registration as a Transfer Agent Pursuant to Section 17A of the Securities Exchange Act of 1934

ATTENTION: This electronic Form TA–1 is to be filed only by SEC registrants. All other registrants file Form TA–1 in paper format with their Appropriate Regulatory Authority and should obtain the form from such authority.

Certain sections of the Securities Exchange Act of 1934 applicable to transfer agents are referenced or summarized below. Registrants are urged to review all applicable provisions of the Securities Exchange Act of 1934, the Securities Act of 1933 and the Investment Company Act of 1940, as well as the applicable rules promulgated by the SEC under those Acts.

I. General Instructions for Filing and Amending Form TA–1.

A. *Terms and Abbreviations.* The following terms and abbreviations are used throughout these instructions:

1. "*Act*" refers to the Securities Exchange Act of 1934.

2. "*ARA*" refers to the appropriate regulatory agency, as defined in Section 3(a)(34)(B) of the Act. See General Instruction D below.

3. "*Form TA–1*" is the Form filed as a registration and includes the Form and any attachments to that Form.

4. "*Registrant*" refers to the entity on whose behalf Form TA–1 is filed.

5. "*SEC*" or "*Commission*" refers to the U.S. Securities and Exchange Commission.

6. "*Transfer agent*" is defined in Section 3(a)(25) of the Act as any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer in at least one of the functions enumerated therein.

7. "*Independent, Non-Issuer Transfer Agent*" refers to an entity which acts as a transfer agent for other than its own securities or securities of an affiliate.

8. "*Regulation S–T*" is the SEC's regulation containing the rules related to filing electronic documents in EDGAR. 17 CFR 232 *et seq.*

9. "*EDGAR*" (Electronic Data Gathering, Analysis, and Retrieval) is the computer system for the receipt, acceptance, review, and dissemination of documents submitted to the Commission in electronic format.

10. "*EDGAR Filer Manual*" is the manual prepared by the SEC setting out the technical format requirements for an electronic submission to EDGAR.

11. "*EDGARLite*" is an application in EDGAR that registrants may use to create the electronic Form TA–1 for submission to EDGAR.

B. *Who Must File.* Pursuant to Section 17A(c)(1) of the Act, it is unlawful for a transfer agent to perform any transfer agent function with respect to any qualifying security unless that transfer agent is registered with its ARA. A qualifying security is any security registered under Section 12 of the Act. Thus, qualifying securities include securities registered on a national securities exchange pursuant to Section 12(b) of the Act as well as equity securities registered pursuant to Section 12(g)(1) of the Act for issuers that have total assets exceeding $3,000,000 and a class of equity securities (other than

exempted securities) held of record by 500 or more persons. In addition, qualifying securities include equity securities of registered investment companies and certain insurance companies that would be required to be registered under Section 12(g) except for the exemptions provided by paragraphs (g)(2)(B) and (g)(2)(G), respectively, of Section 12, *i.e.*, when the asset and shareholder criteria of Section 12(g)(1)(B) are met.

C. *When to File.* Before a transfer agent may perform any transfer agent function for a qualifying security, it must apply for registration on Form TA–1 with its ARA and its registration must become effective. Instructions for amending Form TA–1 appear at General Instruction H.

D. *How to File.* Registrants file electronically in EDGAR. Registrants should refer to the EDGAR Filer Manual, which is available on the SEC's Web site, *www.sec.gov*, for the instructions for preparing forms in EDGARLite™ and filing forms in EDGAR as well as for the computer hardware and software requirements for electronic filing. A Form TA–1 or an amended Form TA–1 which is not completed properly may be suspended as not acceptable for filing. Acceptance of this form, however, does not mean that the Commission has found that it has been filed as required or that the information submitted therein is true, correct or complete. Registrants that are granted a hardship exemption from electronic filing under Rule 202 of Regulation S–T, 17 CFR 232.202, will be provided with instructions on how and where to file a paper Form TA–1. A registrant that wishes to include a cover letter or other correspondence may do so by including the document as an attachment to the Form.

E. *EDGAR Access.* Before registrants may prepare the Form in EDGARLite or file the Form in EDGAR they must apply for access to EDGAR. Registrants should refer to the EDGAR Filer Manual, Volume I (General Instructions) for information on accessing EDGAR.

F. *Records.* Each registrant must keep an exact copy of any filing for its records. Registrants should refer to 17 CFR 240.17Ad–6 and 240.17Ad–7 for information regarding the recordkeeping rules for transfer agents.

G. *Effective Date.* Registration of a transfer agent becomes effective thirty days after receipt by the ARA of the application for registration unless the filing does not comply with applicable requirements or the ARA takes affirmative action to accelerate, deny, or postpone registration in accordance with the provisions of Section 17A(c) of the Act.

H. *Amending Registration.* Each registrant must amend Form TA–1 within sixty calendar days following the date on which information reported therein becomes inaccurate, incomplete, or misleading.

1. Registrants amend Form TA–1 by selecting the submission type ''Amendment'' on Form TA–1.

2. All fields that are required to be completed on the registrant's Form TA–1 must be completed on the amended Form TA–1. The transfer agent may use a saved electronic version of a previously filed Form TA–1 or amended Form TA–1 as a template for the amended filing and create the amended form by revising the responses for which the information has become inaccurate, incomplete, or misleading. (For instructions on using a saved form as a template for an amended filing, registrants should refer to the EDGAR Filer Manual.)

II. Special Instructions for Filing and Amending Form TA–1.

A. *Electronic Filing.* Beginning [effective date of the proposed rule], all transfer agent forms (Form TA–1, Form TA–2, and Form TA–W) filed with the SEC must be filed electronically in EDGAR. Transfer agents that are registered with the SEC must refile electronically the information on their Form TA–1, as amended, with the SEC on an amended Form TA–1. The SEC will not accept any other transfer agent form from such transfer agents until they have filed an electronic amended Form TA–1.

B. *Exemptions from Electronic Filing.* The SEC may in limited cases grant an exemption from electronic filing where the filer can show that an electronic filing requirement creates an unreasonable burden or expense. Registrants should refer to Rule 202 of Regulation S–T, 17 CFR 232.202, and the SEC's Web site, *http://www.sec.gov*, for information on applying for a hardship exemption.

C. *Registration.* Registrants must provide full and complete responses in the appropriate format.

1. Information relating to electronic filing. As an EDGAR filer, a registrant is required to provide the following:

a. Whether the form is a ''live'' or ''test'' filing submission;

b. Whether the registrant would like a Return Copy of the filing;

c. The registrant's CIK;

d. The registrant's CCC;

e. The contact e-mail address for the registrant; and

f. The notification e-mail address(es) for the registrant regarding the status of the submission.

Detailed instructions regarding the above are provided in the EDGAR Filer Manual, Volume I (General Requirements). A registrant that is granted a continuing hardship exemption from electronic filing pursuant to Rule 202 of Regulation S–T, 17 CFR 232.202, need only to provide its CIK.

2. In answering Question 3.b. of Form TA–1, the term Financial Industry Number Standard (FINS number) means a six digit number assigned by The Depository Trust Company (DTC) upon request to financial institutions engaged in activities involving securities. Registrants that do not have a FINS number may obtain one by requesting it following the steps described on the DTC Web site (*http://www.dtc.org*).

3. State in Question 3.c. the full address of the registrant's principal office where transfer agent activities are, or will be, performed; a post office box number is not acceptable. State in response to Question 3.d. the registrant's mailing address if different from the response to Question 3.c. You may provide a post office box number in response to Question 3.d.

4. For the purpose of answering Question 5, a transfer agent is an affiliate of, or affiliated with, a person, if the transfer agent directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, that person.

5. In answering Questions 6 and 7, a ''named transfer agent'' is a transfer agent engaged by the issuer to perform transfer agent functions for an issue of securities. There may be more than one named transfer agent for a given security issue (*e.g.*, principal transfer agent, co-transfer agent or outside registrar).

D. *Questions 8 through 10.* Only independent, non-issuer registrants are required to complete Questions 8 through 10.

E. *Execution of Form TA–1 and Amendments Thereto.* A duly authorized official or a principal of the registrant must execute Form TA–1 and any amendments thereto on behalf of that registrant. For a corporate registrant, the term official includes the chairman or vice-chairman of the board of directors, the chairman of the executive committee, or any officer of the corporation who is authorized by the corporation to sign Form TA–1 on its behalf. For a non-corporate registrant, duly authorized principal means a principal of the registrant who is authorized to sign Form TA–1 on its

behalf. The official or principal of the registrant shall execute Form TA–1 by providing an electronic signature pursuant to Rule 301, Signatures, of Regulation S–T, 17 CFR 232.301. The official or principal of the registrant must provide his or her full name in typed format in the signature box of the form and must manually sign a signature page or other document authenticating, acknowledging, or otherwise adopting his or her signature that appears in typed form within the electronic filing. The signature page or other such document shall be signed at or before the time the electronic filing is made, shall be retained by the transfer agent for a period of five years, and shall be made available to the Commission or its staff upon request.

By executing Form TA–1, the registrant agrees and consents that notice of any proceeding under the Act by the SEC involving the registrant may be given by sending such notice by registered or certified mail to the registrant, ''Attention Officer in Charge of Transfer Agent Activities,'' at its principal office for transfer agent activities as given in response to Question 3.c. of Form TA–1.

III. Notice

Under Sections 17, 17A(c) and 23(a) of the Act and the rules and regulations thereunder, the SEC is authorized to solicit from applicants for registration as a transfer agent and from registered transfer agents the information required to be supplied by Form TA–1. Disclosure to the SEC of the information requested in Form TA–1 is a prerequisite to the processing of Form TA–1. The information will be used for the principal purpose of determining whether the SEC should permit an application for registration to become effective or should deny, accelerate or postpone registration of an applicant. The information supplied herein may also be used for all routine uses of the SEC. Information supplied on this Form will be included routinely in the public files of the SEC and will be available for inspection by any interested person.

BILLING CODE 8010–01–P

APPENDIX C

OMB Approval
OMB Number: 3235-0151
Expires: July 31, 2008
Estimated average burden hours per response 0.5

UNITED STATES SECURITIES AND EXCHANGE COMMISSION Washington, D.C. 20549

FORM TA-W

NOTICE OF WITHDRAWAL FROM REGISTRATION AS TRANSFER AGENT PURSUANT TO SECTION 17A OF THE SECURITIES EXCHANGE ACT OF 1934

Form Version: 1.0.0

☑ Check to show blank box for printing

1(a). Filer CIK: **1(b).**Filer CCC:

1(c). Live/Test Filing? ○ Live ○ Test

1(d). Return Copy? ☐ Yes

The registrant may provide a single e-mail address for contact purposes.

1(e)(i). Contact Name: **1(e)(ii).**Contact phone Number: **1(e)(iii).**Contact E-mail Address:

The registrant may provide additional e-mail addresses for those persons the filer would like to receive notification e-mails regarding the filing.

1(f). Notification E-mail Address:

2. Transfer Agent File No.: 084 -

3. Full name of registrant:

4. Name under which transfer agent activities are conducted, if different from above:

5. Address of registrants principle place of business:

5(a). Address1

5(b). Address2

5(c). City

5(d). State or Country

5(e). Postal Code

6. Furnish registrant's reasons for ceasing the performance of transfer agent functions or for otherwise requesting withdrawal of its registration:

7. Furnish the last date registrant performed transfer agent functions as defined by Section 3(a)(25) of the Act for any security, including debt and equity, registered under Section 12 of the Act or which would be required to be registered except for the exemption from registration provided by paragraph (g)(2)(B) or (g)(2)(G) of that section.

7(a). Does registrant have any intention of performing in the near future a transfer agent function for any such security?

○ Yes ○ No

8. Is registrant directly or indirectly involved in any legal actions or proceedings or aware of any potential claims against it in connection with its performance of transfer agent functions for any security?

○ Yes ○ No

8(a). If so, furnish complete information with respect to each:

8(a)(i). Individual named in the action or claim:

8(a)(ii). Title of the action or claim:

8(a)(iii). Action date:

8(a)(iv). Court or body name and location:

8(a)(v). Description of the action or claim:

8(a)(vi). Disposition of action or claim:

9. Are there any unsatisfied judgments or liens against registrant arising out of its performance of transfer agent functions for any security?

○ Yes ○ No

9(a). If so, furnish complete information regarding each judgment or lien.

9(a)(i). Individual named in the action or claim:

9(a)(ii). Title of the action or claim: **9(a)(iii).** Action date:

9(a)(iv). Court or body name and location:

9(a)(v). Description of the action or claim:

9(a)(vi). Disposition of action or claim:

10. For each issue for which registrant acted as transfer agent and for any issues for which registrant assumed transfer agent functions since the last amendment to Form TA-1, furnish:

10(a). Is there a successor transfer agent?

○ Yes ○ No

10(b). Name of successor transfer agents:

10(c). Address:

10(c)(i). Address 1

10(c)(ii). Address 2

10(c)(iii). City

10(c)(iv). State or Country

10(c)(v). Postal Code

10(d). Is the successor transfer agent registered as a transfer agent pursuant to the Act?

○ Yes ○ No

11. For each issue for which registrant acted as transfer agent and for any issues for which registrant assumed transfer agent functions since the last amendment to Form TA-1, furnish: name(s) and address(es) of the person(s) who has or will have custody or possession of the books and records which the registrant maintained in connection with its performance of transfer agent functions.

11(a). Name of Custodian

11(b). Address:

11(b)(i). Address 1

11(b)(ii). Address 2

11(b)(iii). City

11(b)(iv). State or Country

11(b)(v). Postal Code

12. Furnish the name(s) and address(es), if different from Item 11, where such books and records will be located.

12(a). Name of Custodian

12(b). Address:

12(b)(i). Address 1

12(b)(ii). Address 2

12(b)(iii). City

12(b)(iv).State or Country

12(b)(v).Postal Code

SIGNATURE: The registrant submitting this Form and its attachments and the person executing it represent that it and all materials filed in connection with it contain a true, correct and complete statement of all required information. Registrant also consents to make the books and records it is required to preserve by Rules 17Ad-6 and 17Ad-7 under the Securities Exchange Act of 1934 (17 CFR 240.17Ad-6 and 240.17Ad-7) available for examination by authorized representatives of the Commission during the period the rules require registrant to preserve such books and records and authorizes the person having custody of such books and records to make them available to such representatives.

13(a).Signature of Official responsible for Form:	13(b).Telephone number:
13(c).Title of Signing Officer:	13(d).Date signed (Month/Day/Year):

BILLING CODE 8010–01–C

Securities and Exchange Commission

Instructions for Use of Form TA–W

Notice of Withdrawal From Registration as a Transfer Agent Pursuant to Section 17A of the Securities Exchange Act of 1934

ATTENTION: This electronic Form TA–W is to be filed only by SEC registrants. All other registrants withdraw from registration as a transfer agent with their appropriate regulatory authority and should obtain instructions on withdrawal from registration as a transfer agent from such authority.

Certain sections of the Securities Exchange Act of 1934 applicable to transfer agents are referenced or summarized below. Registrants are urged to review all applicable provisions of the Securities Exchange Act of 1934, the Securities Act of 1933, and the Investment Company Act of 1940, as well as the applicable rules promulgated by the SEC under those Acts.

I. General Instructions for Filing Form TA–W

A. *Terms and Abbreviations.* The following terms and abbreviations are used throughout these instructions:

1. "*Act*" refers to the Securities Exchange Act of 1934.

2. "*ARA*" refers to the appropriate regulatory agency, as defined in Section 3(a)(34)(B) of the Act. See General Instruction D below.

3. "*Form TA–1*" is the Form filed as a registration and includes the Form and any attachments to that Form.

4. "*Registrant*" refers to the entity on whose behalf Form TA–1 is filed.

5. "*SEC*" or "*Commission*" refers to the U.S. Securities and Exchange Commission.

6. "*Transfer agent*" is defined in Section 3(a)(25) of the Act as any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer in at least one of the functions enumerated therein.

7. "*Independent, Non-Issuer Transfer Agent*" refers to an entity which acts as a transfer agent for other than its own securities or securities of an affiliate.

8. "*Regulation S–T*" is the SEC's regulation containing the rules related to filing electronic documents in EDGAR. 17 CFR 232 *et seq.*

9. "*EDGAR*" (Electronic Data Gathering, Analysis, and Retrieval) is defined in Rule 11 of Regulation S–T, 17 CFR 232.11, as the computer system for the receipt, acceptance, review, and dissemination of documents submitted to the Commission in electronic format.

10. "*EDGAR Filer Manual,*" is the manual prepared by the SEC setting out the technical format requirements for an electronic submission to EDGAR.

11. "*EDGARLite*" is an application in EDGAR that registrants may use to create the electronic Form TA–W for submission to EDGAR.

B. *Who Must File.* Pursuant to Section 17A(c)(4)(B) of the Act, a registered transfer agent may, upon such terms and conditions as the ARA for such transfer agent deems necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of Section 17A the Act,

withdraw from registration by filing a written notice of withdrawal with such ARA.

C. *When to File*. Before a registrant may withdraw from registration as a transfer agent, it must file a notice of withdrawal from registration as a transfer agent with the Commission on Form TA–W.

D. *How to File*. Registrants file electronically in EDGAR. Registrants may prepare the Form using EDGARLite and should refer to the EDGAR Filer Manual, which is available on the SEC's Web site at *http://www.sec.gov* for instructions for preparing and submitting electronic forms as well as for the technical requirements for filing in EDGAR. A Form TA–W which is not completed properly may be suspended as not acceptable for filing. Acceptance of this Form, however, does not mean that the Commission has found that it has been filed as required or that the information submitted therein is true, correct or complete.

Registrants that are granted a hardship exemption from electronic filing under Rule 202 of Regulation S–T, 17 CFR 232.202, will be provided with instructions on how and where to file a paper Form TA–W.

E. *Records*. Each registrant must keep an exact copy of any filing for its records. Registrants should refer to 17 CFR 240.17Ad–6 and 240.17Ad–7 for information regarding the recordkeeping rules for transfer agents.

F. *Effective Date*. In accordance with the rules adopted by the Commission, notice to withdraw from registration filed by a transfer agent shall become effective on the 60th day after the filing thereof with the Commission or within such shorter period of time as the Commission may determine. If a notice to withdraw from registration is filed with the Commission any time subsequent to the date of issuance of an order instituting proceedings pursuant to Section 17A(c)(3)(A), or if prior to the effective date of the notice of withdrawal the Commission institutes such a proceeding or a proceeding to impose terms and conditions upon such withdrawal, the notice of withdrawal shall not become effective except at such time and upon such terms and conditions as the Commission deems necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of Section 17A.

II. Special Instructions for Filing Form TA–W

A. *Electronic Filing*. Beginning [insert effective date of the rule], all transfer agent forms (Form TA–1, Form TA–2, and Form TA–W) filed with the SEC must be filed electronically in EDGAR.

B. *Exemptions from Electronic Filing*. The SEC may, in limited cases, grant an exemption from electronic filing where the filer can show that an electronic filing requirement creates an unreasonable burden or expense. Registrants should refer to Rule 202 of Regulation S–T, 17 CFR 232.202, and to the SEC's Web site, *http://www.sec.gov*, for information on applying for a hardship exemption.

C. *Withdrawal from Registration*. Registrants must provide full and complete responses in the appropriate format.

1. Information relating to electronic filing. As EDGAR filers, registrants are required to provide the following:

a. Whether the Form is a ''live'' or ''test'' filing submission;

b. Whether the registrant would like a Return Copy of the filing;

c. The registrant's CIK;

d. The registrant's CCC;

e. The contact e-mail address for the registrant; and

f. The notification e-mail address(es) for the registrant regarding the status of the submission.

For more information regarding the above requirements see the EDGAR Filer Manual, Volume I (General Requirements). A registrant that is granted a continuing hardship exemption pursuant to Rule 202 of Regulation S–T, 17 CFR 232.202, need only provide its CIK.

2. All items on the Form must be answered in full. Individuals' names must be given in full.

D. *Execution of Form TA–W*. A duly authorized official or a principal of the registrant must execute Form TA–W and any amendments thereto on behalf of that registrant. For a corporate registrant, the term official includes the chairman or vice-chairman of the board of directors, the chairman of the executive committee, or any officer of the corporation who is authorized by the corporation to sign Form TA–W on its behalf. For a non-corporate registrant, duly authorized principal means a principal of the registrant who is authorized to sign Form TA–W on its behalf.

The official or principal of the registrant shall execute Form TA–1 by providing an electronic signature pursuant to Rule 302, Signatures, of Regulation S–T, 17 CFR 232.302. The official or principal of the registrant must provide his or her full name in typed format in the signature box of the Form and must manually sign a signature page or other document authenticating, acknowledging, or otherwise adopting his or her signature that appears in typed Form within the electronic filing. The signature page or other such document shall be signed at or before the time the electronic filing is made, shall be retained by the transfer agent for a period of five years, and shall be made available to the Commission or its staff upon request.

By executing Form TA–W, the registrant agrees and consents that notice of any proceeding under the Act by the SEC involving the registrant may be given by sending such notice by registered or certified mail to the registrant, ''Attention Officer in Charge of Transfer Agent Activities,'' at its principal office for transfer agent activities as given in response to Question 3.c. of Form TA–1.

III. Notice

Under Sections 17, 17A(c) and (23)(a) of the Act and the rules and regulations thereunder, the Commission is authorized to solicit from registered transfer agents the information required to be supplied by this Form. Disclosure to the Commission of the information requested in Form TA–W is a prerequisite to the processing of a notice of withdrawal of registration as a transfer agent. The information will be used for the principal purpose of enabling the Commission to determine whether it is necessary or appropriate in the public interest, for the protection of investors, or in furtherance of the purposes of Section 17A of the Act that the withdrawal be denied, postponed or subject to specific terms and conditions. Information supplied on this Form will be included routinely in the public files of the Commission and will be available for inspection by any interested person.

BILLING CODE 8010–01–P

APPENDIX D

OMB Approval
OMB Number: 3235-0337 Expires: September 30, 2006 Estimated average burden hours per response ..... 6.00 Estimated average burden hours per intermediate response... 1.50 Estimated average burden hours per minimum response..... .50

File Number:
[ ] - [ ]
For the reporting period ended December 31, [ ]

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM TA-2

FORM FOR REPORTING ACTIVITIES OF TRANSFER AGENTS REGISTERED PURSUANT TO SECTION 17A OF THE SECURITIES EXCHANGE ACT OF 1934

ATTENTION: INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACT CONSTITUTE FEDERAL CRIMINAL VIOLATIONS. See 18 U.S.C. 1001 and 15 U.S.C. 78ff(a)

Form Version: 1.0.0 ☑ Check to show blank form for printing

1(a). Filer CIK: [ ] **1(b).** Filer CCC: [ ]

1(c). Live/Test Filing? ○ Live ○ Test

1(d). Return Copy ☐ Yes

1(e). Is this filing an amendment to a previous filing? ☐ Yes

The registrant may provide a single e-mail address for contact purposes.

1(f)(i). Contact Name: [ ] **1(f)(ii).** Contact Phone Number: [ ] **1(f)(iii).** Contact E-mail Address: [ ]

The registrant may provide additional e-mail addresses for those persons the filer would like to receive notification e-mails regarding the filing.

1(g). Notification E-mail Address:

1(h). Full Name of Registrant as stated in Question 3 of Form TA-1:

2(a). During the reporting period, has the Registrant engaged a service company to perform any of its transfer agent functions?

○All ○Some ○None

2(b). If the answer to subsection (a) is all or some, provide the name(s) and transfer agent file number(s) of all service company(ies) engaged:

Name of Transfer Agent(s):	File Number:
	-
	-
	-
	-
	-

2(c). During the reporting period, has the Registrant been engaged as a service company by a named transfer agent to perform transfer agent functions?

○ Yes ○ No

2(d). If the answer to subsection (c) is yes, provide the name(s) and file number(s) of the named transfer agent(s) for which the Registrant has been engaged as a service company to perform transfer agent functions:

Name of Transfer Agent(s):	File Number:
	-
	-
	-
	-
	-

3(a). Registrant's appropriate regulatory agency (ARA):

3(b). During the reporting period, has the Registrant amended Form TA-1 within 60 calendar days following the date on which information reported therein became inaccurate, incomplete, or misleading?

○ Yes, filed amendment(s)
○ No, failed to file amendment(s)
○ Not applicable

3(c). If the answer to subsection (b) is no, provide an explanation:

If the response to any of questions 4-11 below is none or zero, enter "0."

4(a). Number of items received for transfer during the reporting period:

4(b). Number of individual securityholder accounts for which the TA maintained master securityholder filings:

5(a). Total number of individual securityholder accounts, including accounts in the Direct Registration System (DRS), dividend reinvestment plans and/or direct purchase plans as of December 31:

5(b). Number of individual securityholder dividend reinvestment plan and/or direct purchase plan accounts as of December 31:

5(c). Number of individual securityholder DRS accounts as of December 31:

5(d). Approximate percentage of individual securityholder accounts from subsection (a) in the following categories as of December 31:

5(d)(i) Corporate Equity Securities	5(d)(ii) Corporate Debt Securities	5(d)(iii) Open-End Investment Company Securities	5(d)(iv) Limited Partnership Securities	5(d)(v) Municipal Debt Securities	5(d)(vi) Other Securities

6. Number of securities issues for which Registrant acted in the following capacities, as of December 31:

Corporate Securities		Open-End Investment Company Securities	Limited Partnership Securities	Municipal Debt Securities	Other Securities
Equity	Debt				

6(a). Receives items for transfer and maintains the master securityholder files:	**6(a)(i)**	**6(a)(ii)**	**6(a)(iii)**	**6(a)(iv)**	**6(a)(v)**	**6(a)(vi)**
6(b). Receives items for transfer but does not maintain the master securityholder files:	**6(b)(i)**	**6(b)(ii)**	**6(b)(iii)**	**6(b)(iv)**	**6(b)(v)**	**6(b)(vi)**
6(c). Does not receive items for transfer but maintains the master securityholder files:	**6(c)(i)**	**6(c)(ii)**	**6(c)(iii)**	**6(c)(iv)**	**6(c)(v)**	**6(c)(vi)**

7. Scope of certain additional types of activities performed:

7(a). Number of issues for which dividend reinvestment plan and/or direct purchase plan services were provided, as of December 31:	
7(b). Number of issues for which DRS services were provided, as of December 31:	

7(c). Dividend disbursement and interest paying agent activities conducted during the reporting period:

7(c)(i). number of issues	
7(c)(ii). amount (in dollars)	

8(a). Number and aggregate market value of securities aged record differences, existing for more than 30 days, as of December 31:

	Prior Transfer Agent(s) (If applicable)	Current Transfer Agent
8(a)(i). Number of issues		
8(a)(ii). Market value (in dollars)		

8(b). Number of quarterly reports regarding buy-ins filed by the registrant with its ARA (including the SEC) during the reporting period pursuant to Rule 17Ad-11(c)(2) of the Act:	

8(c). During the reporting period, did the Registrant file all quarterly reports regarding buy-ins with its ARA (including the SEC) required by Rule 17Ad-11(c)(2) of the Act?

O Yes O No

8(d). If the answers to subsection (c) is no, provide an explanation for each failure to file:

9(a). During the reporting period, has the Registrant always been in compliance with the turnaround time for routine items as set forth in Rule 17Ad-2 of the Act?

O Yes O No

If the answer to subsection (a) is no, complete subsections (i) through (ii).

9(a)(i). Provide the number of months during the reporting period in which the Registrant was not in compliance with the turnaround time for routine items according to Rule 17Ad-2 of the Act:

9(a)(ii). Provide the number of written notices Registrant filed during the reporting period with the SEC and with its ARA that reported its noncompliance with turnaround time for routine items according to Rule 17Ad-2 of the Act:

10. Number of open-end investment company securities purchases and redemptions (transactions) excluding dividend, interest and distribution postings, and address changes processed during the reporting period:

10(a). Total number of transactions processed:

10(b). Number of transactions processed on a date other than date of receipt of order (as ofs):

11(a). During the reporting period, provide the date of all database searches conducted for lost securityholder accounts listed on the transfer agent's master securityholder files, the number of lost securityholder accounts for which a database search has been conducted, and the number of lost securityholder accounts for which a different address has been obtained as a result of a database search:

11(a)(i) Date of Database Search	11(a)(ii) Number of Lost Securityholder Accounts Submitted for Database Search	11(a)(iii) Addresses Obtained from Database Search

11(b). Number of lost securityholder accounts that have been remitted to states during the reporting period:

SIGNATURE: The Registrant submitting this Form, and the person signing the Form, hereby represent that all the information contained in the Form is true, correct, and complete.

12(a). Signature of Official responsible for Form:	**12(b).** Telephone Number:
12(c). Title of Signing Officer:	**12(d).** Date Signed (Month/Day/Year):

13. Related Documents/Attachments

13(a). File Name:	
13(b). Type of Attachment:	○ COVER ○ CORRESP ○ GRAPHIC
13(c). Type of Attachment Additional Description:	
13(d). Attachment Description:	
13(e). File:	

BILLING CODE 8010–01–C

UNITED STATES

Securities and Exchange Commission

Instructions for Use of Form TA–2

Form for Reporting Transfer Agent Activities Pursuant to Section 17A of the Securities Exchange Act of 1934

ATTENTION: All transfer agents, whether they are registered with the SEC or with another regulatory authority, must file an annual report on Form TA–2 in electronic format with the SEC.

Certain sections of the Securities Exchange Act of 1934 applicable to transfer agents are referenced below. Transfer agents are urged to review all applicable provisions of the Securities Exchange Act of 1934, the Securities Act of 1933, and the Investment Company Act of 1940, as well as the applicable rules promulgated by the SEC under those Acts.

I. General Instructions for Filing and Amending Form TA–2.

A. *Terms and Abbreviations.* The following terms and abbreviations are used throughout these instructions:

1. "*Act*" means the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.*

2. "*Aged record difference,*" as defined in Rule 17Ad–11(a)(2), 17 CFR 240.17Ad-11(a)(2), means a record difference that has existed for more than 30 calendar days.

3. ''*ARA*,'' as defined in Section 3(a)(34)(B) of the Act, 15 U.S.C. 78c(a)(34)(B), means the appropriate regulatory agency.

4. ''*Direct Registration System*'' or ''*DRS*'' means the system, as administered by The Depository Trust Company, that allows investors to hold their securities in electronic book-entry form directly on the books of the issuer or its transfer agent.

5. ''*Form TA–2*'' includes the Form TA–2 and any attachments.

6. ''*Lost securityholder,*'' as defined in Rule 17Ad–17, 17 CFR 240.17Ad–17, means a securityholder: (i) to whom an item of correspondence that was sent to the securityholder at the address contained in the transfer agent's master securityholder file has been returned as undeliverable; provided, however, that if such item is re-sent within one month to the lost securityholder, the transfer agent may deem the securityholder to be a lost securityholder as of the day the re-sent item is returned as undeliverable; and (ii) for whom the transfer agent has not received information regarding the securityholder's new address.

7. ''*Named transfer agent,*'' as defined in Rule 17Ad–9(j), 17 CFR 240.17Ad–9(j), means a registered transfer agent that has been engaged by an issuer to perform transfer agent functions for an issue of securities but has engaged a service company (another registered transfer agent) to perform some or all of those functions.

8. ''*Record difference*'' means any of the imbalances described in Rule 17Ad–9(g), 17 CFR 240.17Ad–9(g).

9. ''*Reporting period*'' means the calendar year ending December 31 of the year for which Form TA–2 is being filed.

10. ''*SEC*'' or ''*Commission*'' means the United States Securities and Exchange Commission.

11. ''*Service company,*'' as defined in Rule 17Ad–9(k), 17 CFR 240.17Ad–9(k), means the registered transfer agent engaged by a named transfer agent to perform transfer agent functions for that named transfer agent.

12. ''*Transfer agent,*''as defined in Section 3(a)(25) of the Act, 15 U.S.C. 78c(a)(25), means any person who engages on behalf of an issuer of securities or on behalf of itself as an issuer in at least one of the functions enumerated therein.

13. ''*Regulation S–T,*'' 17 CFR 232, is the SEC's regulation that sets forth the rules related to filing electronic documents in EDGAR.

14. ''*EDGAR,*'' Electronic Data Gathering, Analysis, and Retrieval, is defined in Rule 11 of Regulation S–T, 17 CFR 232.11, as the computer system for the receipt, acceptance, review, and dissemination of documents submitted in electronic format.

15. ''*EDGAR Filer Manual,*'' as defined in Rule 11 of Regulation S–T, 17 CFR 232.11, is the manual prepared by the SEC setting out the technical format requirements for an electronic submission to EDGAR.

16. ''*EDGARLite*'' is an EDGAR application described in the EDGAR Filer Manual that transfer agents may use to create the electronic Form TA–2 for submission to EDGAR.

B. *Who Must File; When to File.*

1. Every transfer agent that is registered on December 31 must file Form TA–2 in accordance with the instructions contained therein by the following March 31. Before an SEC registered transfer agent may file a Form TA–2 on EDGAR it must have filed a Form TA–1 or an amended Form TA–1 on EDGAR. SEC transfer agents should refer to the instructions to 240 CFR 17Ac2–1 and Form TA–1 for more information.

a. A registered transfer agent that received fewer than 1,000 items for transfer during the reporting period *and* that did not maintain master securityholder files for more than 1,000 individual securityholder accounts as of December 31 of the reporting period is required to complete Questions 1 through 5, 11, and the signature section of Form TA–2.

b. A named transfer agent that engaged a service company to perform *all* of its transfer agent functions during the reporting period is required to complete Questions 1 through 3 and the signature section of Form TA–2.

c. A named transfer agent that engaged a service company to perform *some but not all* of its transfer agent functions during the reporting period must complete all of Form TA–2 but should enter zero (0) for those questions that relate to functions performed by the service company on behalf of the named transfer agent.

2. The date on which any filing is actually received by the SEC is the transfer agent's filing date provided that the filing complies with all applicable requirements. A Form TA–2 or an amended Form TA–2 which is not completed properly may be suspended as not acceptable for filing. Acceptance of this Form, however, does not mean that the Commission has found that it has been filed as required or that the information submitted therein is true, correct or complete.

C. *How to File.* Transfer agents file Form TA–2 electronically on EDGAR. Transfer agents should refer to the EDGAR Filer Manual, which is available on the SEC's Web site *http://www.sec.gov,* for the technical instructions for preparing forms using EDGARLite™ and for filing on EDGAR as well as for the computer hardware and software requirements.

Transfer agents that are granted a hardship exemption from electronic filing under Rule 202 of Regulation S-T, 17 CFR 232.202, will be provided with instructions on how and where to file a paper Form TA–2.

A transfer agent that wishes to include a cover letter or other correspondence may do so by including the document as an electronic attachment to the form.

D. *EDGAR Access.* Before transfer agents file on EDGAR they must obtain access to EDGAR. Transfer agents should refer to the EDGAR Filer Manual, Volume I (General Instructions) for information on accessing EDGAR.

E. *Amending Form TA–2.* Transfer agents may amend Form TA–2 at any time to correct errors in the information reported therein.

1. A transfer agent may amend Form TA–2 by selecting the submission type ''Amendment'' on Form TA–2. The transfer agent may use a saved electronic version of a previously filed Form TA–2 or an amended Form TA–2 as a template for the amended filing. For instructions on using a saved form as a template for an amended filing transfer agents should refer to the EDGAR Filer Manual.

2. All fields that are required to be completed on the transfer agent's Form TA–2 must be completed on the amended Form TA–2 with the transfer agent amending only those answers for which it needs to correct an error.

F. *Records.* Each transfer agent must keep an exact copy of any filing for its records. Transfer agents should refer to 17 CFR 240.17Ad–6 and 240.17Ad–7 for information regarding the recordkeeping rules for transfer agents.

G. *Execution of Form TA–2 and Amendments Thereto.* A duly authorized official or a principal of the transfer agent shall execute Form TA–2 by providing an electronic signature pursuant to Rule 301, Signatures, of Regulation S–T, 17 CFR 301. The official or principal of the transfer agent must provide his or her full name in typed format in the signature box of the form and must manually sign a signature page or other document authenticating, acknowledging, or otherwise adopting his or her signature that appears in typed form within the electronic filing. The signature page or other such document shall be signed at or before the time the electronic filing is made, shall be retained by the transfer

agent for a period of five years, and shall be made available to the Commission or its staff upon request.

II. Special Instructions for Filing Form TA–2.

A. *Electronic Filing.* Beginning [insert effective date of the rule], all transfer agent forms (Form TA–1, Form TA–2, and Form TA–W) filed with the SEC must be filed electronically on EDGAR. Transfer agents that are registered with the SEC must refile electronically the information on their Form TA–1, as amended, with the SEC on an amended Form TA–1. The SEC will not accept a Form TA–2 from transfer agents that are registered with the SEC until such transfer agents have filed an electronic amended Form TA–1.

B. *Exemptions from Electronic Filing.* The SEC may in limited cases grant an exemption from electronic filing where the filer can show that an electronic filing requirement creates an unreasonable burden or expense. Transfer agents should refer to Rule 202 of Regulation S–T, 17 CFR 232.202, and to the SEC's Web site for information on applying for a hardship exemption.

C. *Report of Transfer Agent Activities.* Transfer agents must provide full and complete responses in the appropriate format

1. *Information relating to electronic filing.* As an EDGAR filer, the transfer agent is required to provide the following:

a. Whether the form is a ''live'' or ''test'' filing submission;

b. Whether the transfer agent would like a Return Copy of the filing;

c. The transfer agent's CIK;

d. The transfer agent's CCC;

e. The contact e-mail address for the transfer agent; and

f. The notification e-mail address(es) for the transfer agent regarding the status of the submission.

For more information regarding the above requirements see the EDGAR Filer Manual, Volume I (General Requirements). A transfer agent that is granted a continuing hardship exemption pursuant to Rule 202 of Regulation S–T, 17 CFR 232.202, need only provide its CIK.

2. Indicate the calendar year for which Form TA–2 is filed. A transfer agent registered on December 31 shall file Form TA–2 by the following March 31 even if the transfer agent conducted business for less than the entire reporting period.

3. In answering Question 4.a., indicate the number of items received for transfer during the reporting period. Omit the purchase and redemption of open-end investment company shares. Report those items in response to Question 10.

4. In answering Questions 5 and 6, include closed-end investment company securities in the corporate equity securities category.

a. In answering Question 5.a., include Direct Registration System, dividend reinvestment plan and/or direct purchase plan accounts in the total number of individual securityholder accounts maintained.

b. In answering Question 5.b., include dividend reinvestment plan and/or direct purchase plan accounts only.

c. In answering Question 5.c., include Direct Registration System accounts only.

d. In answering Question 5.d., include American Depositary Receipts (ADRs) in the corporate equity or corporate debt category, as appropriate, and include dividend reinvestment plan and/or direct purchase plan accounts in the corporate equity or open-end investment company securities category.

e. In answering Question 6, debt securities are to be counted as one issue per CUSIP number. Open-end investment company securities portfolios are to be counted as one issue per CUSIP number.

5. In answering Question 7.c., exclude coupon payments and transfers of record ownership as a result of corporate actions.

6. In answering Question 10, exclude non-value transactions such as name or address changes.

7. In answering Question 11.b., include only those accounts held by securityholders that are defined as lost by Rule 17Ad–17, 17 CFR 240.17Ad–17, when the underlying securities (*i.e.*, not just dividends and interest) have been remitted to the states.

III. Notice

SEC's Collection of Information: An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number. Under Sections 17, 17A(c) and 23(a) of the Act and the rules and regulations thereunder, the SEC is authorized to solicit from registered transfer agents the information required to be supplied on Form TA–2. The filing of this Form is mandatory for all registered transfer agents. The information will be used for the principal purpose of regulating registered transfer agents but may be used for all routine uses of the SEC or of the ARAs. Information supplied on this Form will be included routinely in the public files of the ARAs and will be available for inspection by any interested person. Any member of the public may direct to the SEC any comments concerning the accuracy of the burden estimate on the application facing page of this Form, and any suggestions for reducing this burden. The Office of Management and Budget has reviewed this collection of information in accordance with the clearance requirements of 44 U.S.C. 3507.

[FR Doc. 06–7269 Filed 9–8–06; 8:45 am]

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html.*

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html.* Some laws may not yet be available.

H.R. 4646/P.L. 109–273

To designate the facility of the United States Postal Service located at 7320 Reseda Boulevard in Reseda, California, as the "Coach John Wooden Post Office Building". (Aug. 17, 2006; 120 Stat. 773)

H.R. 4811/P.L. 109–274

To designate the facility of the United States Postal Service located at 215 West Industrial Park Road in Harrison, Arkansas, as the "John Paul Hammerschmidt Post Office Building". (Aug. 17, 2006; 120 Stat. 774)

H.R. 4962/P.L. 109–275

To designate the facility of the United States Postal Service located at 100 Pitcher Street in Utica, New York, as the "Captain George A. Wood Post Office Building". (Aug. 17, 2006; 120 Stat. 775)

H.R. 5104/P.L. 109–276

To designate the facility of the United States Postal Service located at 1750 16th Street South in St. Petersburg, Florida, as the "Morris W. Milton Post Office". (Aug. 17, 2006; 120 Stat. 776)

H.R. 5107/P.L. 109–277

To designate the facility of the United States Postal Service located at 1400 West Jordan Street in Pensacola, Florida, as the "Earl D. Hutto Post Office Building". (Aug. 17, 2006; 120 Stat. 777)

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H.R. 5540/P.L. 109–279

To designate the facility of the United States Postal Service located at 217 Southeast 2nd Street in Dimmitt, Texas, as the "Sergeant Jacob Dan Dones Post Office". (Aug. 17, 2006; 120 Stat. 779)

H.R. 4/P.L. 109–280

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An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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1–49	(869–056–00138–0)	60.00	July 1, 2005
50–51	(869–060–00139–5)	45.00	July 1, 2006
52 (52.01–52.1018)	(869–056–00140–1)	60.00	July 1, 2005
52 (52.1019–End)	(869–056–00141–0)	61.00	July 1, 2005
*53–59	(869–060–00142–5)	31.00	July 1, 2006
60 (60.1–End)	(869–056–00143–6)	58.00	July 1, 2005
60 (Apps)	(869–056–00144–4)	57.00	July 1, 2005
*61–62	(869–060–00145–0)	45.00	July 1, 2006
63 (63.1–63.599)	(869–056–00146–1)	58.00	July 1, 2005
63 (63.600–63.1199)	(869–056–00147–9)	50.00	July 1, 2005
63 (63.1200–63.1439)	(869–056–00148–7)	50.00	July 1, 2005
63 (63.1440–63.6175)	(869–056–00149–5)	32.00	July 1, 2005
63 (63.6580–63.8830)	(869–056–00150–9)	32.00	July 1, 2005
63 (63.8980–End)	(869–056–00151–7)	35.00	[7]July 1, 2005
64–71	(869–056–00152–5)	29.00	July 1, 2005
72–80	(869–056–00153–5)	62.00	July 1, 2005
81–85	(869–056–00154–1)	60.00	July 1, 2005
86 (86.1–86.599–99)	(869–056–00155–0)	58.00	July 1, 2005
86 (86.600–1–End)	(869–056–00156–8)	50.00	July 1, 2005
87–99	(869–056–00157–6)	60.00	July 1, 2005
100–135	(869–056–00158–4)	45.00	July 1, 2005
136–149	(869–056–00159–2)	61.00	July 1, 2005
150–189	(869–056–00160–6)	50.00	July 1, 2005
190–259	(869–056–00161–4)	39.00	July 1, 2005
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266–299	(869–056–00163–1)	50.00	July 1, 2005
300–399	(869–056–00164–9)	42.00	July 1, 2005
400–424	(869–056–00165–7)	56.00	[8]July 1, 2005
425–699	(869–056–00166–5)	61.00	July 1, 2005
700–789	(869–056–00167–3)	61.00	July 1, 2005
790–End	(869–056–00168–1)	61.00	July 1, 2005
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–056–00169–0)	24.00	July 1, 2005
101	(869–060–00170–1)	21.00	[11] July 1, 2006
102–200	(869–056–00171–1)	56.00	July 1, 2005
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42 Parts:			
1–399	(869–056–00173–8)	61.00	Oct. 1, 2005
400–429	(869–056–00174–6)	63.00	Oct. 1, 2005
430–End	(869–056–00175–4)	64.00	Oct. 1, 2005
43 Parts:			
1–999	(869–056–00176–2)	56.00	Oct. 1, 2005
1000–end	(869–056–00177–1)	62.00	Oct. 1, 2005
44	(869–056–00178–9)	50.00	Oct. 1, 2005
45 Parts:			
1–199	(869–056–00179–7)	60.00	Oct. 1, 2005
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500–1199	(869–056–00171–9)	56.00	Oct. 1, 2005
1200–End	(869–056–00182–7)	61.00	Oct. 1, 2005
46 Parts:			
1–40	(869–056–00183–5)	46.00	Oct. 1, 2005
41–69	(869–056–00184–3)	39.00	[9]Oct. 1, 2005
70–89	(869–056–00185–1)	14.00	[9]Oct. 1, 2005
90–139	(869–056–00186–0)	44.00	Oct. 1, 2005
140–155	(869–056–00187–8)	25.00	Oct. 1, 2005
156–165	(869–056–00188–6)	34.00	[9]Oct. 1, 2005
166–199	(869–056–00189–4)	46.00	Oct. 1, 2005
200–499	(869–056–00190–8)	40.00	Oct. 1, 2005
500–End	(869–056–00191–6)	25.00	Oct. 1, 2005
47 Parts:			
0–19	(869–056–00192–4)	61.00	Oct. 1, 2005
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40–69	(869–056–00194–1)	40.00	Oct. 1, 2005
70–79	(869–056–00195–9)	61.00	Oct. 1, 2005
80–End	(869–056–00196–7)	61.00	Oct. 1, 2005
48 Chapters:			
1 (Parts 1–51)	(869–056–00197–5)	63.00	Oct. 1, 2005
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2 (Parts 201–299)	(869–056–00199–1)	50.00	Oct. 1, 2005
3–6	(869–056–00200–9)	34.00	Oct. 1, 2005
7–14	(869–056–00201–7)	56.00	Oct. 1, 2005
15–28	(869–056–00202–5)	47.00	Oct. 1, 2005

Title	Stock Number	Price	Revision Date
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49 Parts:			
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186–199	(869–056–00206–8)	23.00	Oct. 1, 2005
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17.99(i)–end and 17.100–end	(869–056–00217–3)	47.00	Oct. 1, 2005
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Complete set (one-time mailing)		325.00	2004

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2004 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2004 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2004, through July 1, 2005. The CFR volume issued as of July 1, 2003 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2004, through October 1, 2005. The CFR volume issued as of October 1, 2004 should be retained.

[10] No amendments to this volume were promulgated during the period April 1, 2005, through April 1, 2006. The CFR volume issued as of April 1, 2005 should be retained.

[11] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.