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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

Airworthiness Design Standards Under the Primary Category Rule; Cubcrafters, Inc., Model PC18–160

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Issuance of Final Airworthiness Design Standards.

SUMMARY: This notice announces the issuance of airworthiness design standards for acceptance of the Cubcrafters, Inc., Model PC18–160 airplane under 14 CFR, part 21, § 21.17(f). Designation of applicable regulations: For primary category aircraft.

DATES: This Final Airworthiness Design Standard is effective April 9, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie B. Taylor, Aerospace Engineer, Standards Office (ACE–111), Small Airplane Directorate, Aircraft Certification Service, FAA; telephone number (816) 329–4134, fax number (816) 329–4090, e-mail at *leslie.b.taylor@faa.gov.*

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this information by contacting the person named above under **FOR FURTHER INFORMATION CONTACT**.

Comments

The proposed airworthiness design standards were offered for comment in **Federal Register** Volume 73, No. 14, Page 3655 on January 22, 2008. No comments were received and the proposed airworthiness design standards were adopted.

Background

The ''primary'' category for aircraft was created specifically for the simple, low performance personal aircraft. A means for applicants to propose airworthiness standards for their particular primary category aircraft is provided under 14 CFR, part 21, § 21.17(f). The FAA procedure establishing appropriate airworthiness standards includes reviewing and possibly revising the applicant's proposal, publication of the submittal in the **Federal Register** for public review and comment, and addressing the comments. After all necessary revisions, the standards are published as approved FAA airworthiness standards.

Accordingly, the FAA adopts the following airworthiness standards as final.

Citation

The authority citation for these airworthiness standards is as follows:

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

Final Airworthiness Standards for Acceptance of the Cubcrafters Model PC18–160 Under the Primary Category Rule

The certification basis for the Cubcrafters, Inc., Model PC18–160 is the Primary Category Rule (part 21, § 21.24) with Amendment 23–57 for 14 CFR, part 23, §§ 23.853(a); 23.863; 23.1303(a), (b), and (c); 23.1311(a)(1) through (a)(4), and (b); 23.1321; 23.1322; 23.1329 and 23.1359 and:

Airframe and Systems

ASTM F2245–07, ''Standard Specification for Design and Performance of a Light Sport Airplane,'' modified as follows:

1. Federal Aviation Regulations 23 Loads Report and Test Proposal to be reviewed and approved by the Seattle Aircraft Certification Office (ACO). Specifically, Section 5 of ASTM F2245–07 is replaced by Federal Aviation Regulations part 23, §§ 23.301 through 23.561 (latest amendments through Amendment 23–55) as applicable to this airplane.

2. All major structural components will be tested as per the approved Test Proposal (this eliminates ''analysis'' allowed by ASTM).

3. Paragraph 4.2.1 of ASTM F2245–07 is replaced by Federal Aviation Regulations part 23, § 23.25(b) except that the empty weight referred to in Federal Aviation Regulations part 23, § 23.25(b)(1) is replaced by the maximum empty weight defined in Paragraph 3.1.2 of ASTM F2245–07.

Engine

The engine may or may not have its own type certificate. If the engine does not have its own type certificate, it will be included in the airplane type certificate using the following as a proposed certification basis:

1. ASTM F2339–06, ''Standard Practice for Design and Manufacture of Reciprocating Spark Ignition Engines for Light Sport Aircraft,'' modified as follows: Engine parts and assemblies will be manufactured under the purview of a production certificate held by the applicant. Section 7 of ASTM F2339–06 does not apply.

2. Optionally, the applicant may elect to use a type certificated engine up to 180 horsepower.

Propeller

A type certificated propeller will be used.

In addition to the applicable airworthiness regulations, the PC18–160 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; and the FAA must issue a finding of regulatory adequacy pursuant to § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

Issued in Kansas City, Missouri on April 9, 2008.

Kim Smith,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–9863 Filed 5–2–08; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 155 and 156

[USCG–2001–9046]

RIN 1625–AB12

Tank Level or Pressure Monitoring Devices on Single-Hull Tank Ships and Single-Hull Tank Barges Carrying Oil or Oil Residue as Cargo

AGENCY: Coast Guard, DHS.

ACTION: Final rule; suspension of regulations.

SUMMARY: The Coast Guard is suspending for three additional years, until 2011, the regulations in Title 33 Code of Federal Regulations parts 155 and 156 for tank level or pressure monitoring devices on single-hull tank ships and single-hull tank barges carrying oil or oil residue as cargo. This action is required as there are currently no devices on the market that can meet the requirements of the regulation.

DATES: This rule is effective June 4, 2008.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, contact Ms. Dolores Pyne-Mercier, Systems Engineering Division (CG–5213), Coast Guard, telephone 202–372–1381 or e-mail *Dolores.J.Pyne-Mercier@uscg.mil*. If you have questions on viewing or submitting material to the docket, call Ms. Renee V. Wright, Program Manager, Docket Operations, telephone 202–493–0402.

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I. Table of Abbreviations

APA Administrative Procedure Act
CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NEPA National Environmental Policy Act of 1969
NTTAA National Technology Transfer and Advancement Act
OMB Office of Management and Budget
OPA 90 Oil Pollution Act of 1990
TLPM Tank Level or Pressure Monitoring
U.S. United States
U.S.C. United States Code

II. Public Participation and Comment

The Coast Guard did not seek public comment on this final rule as it extends for three additional years, until 2011, a suspension currently in place that has already undergone public comment. We respond to the comments previously received in the Discussion of Comments section of this final rule. We do not plan to hold public meetings for this final rule.

III. Background and Purpose

On July 20, 2005, the Coast Guard published a final rule and request for comments suspending for three years (until July 21, 2008) the regulations in title 33 Code of Federal Regulations (CFR) parts 155 and 156 requiring installation of tank level or pressure monitoring (TLPM) devices on single-hull tank vessels. 67 FR 58515. In that final rule, we explained how Congress amended the language of section 4110 of Oil Pollution Act of 1990 (OPA 90) through the Coast Guard and Maritime Transportation Act of 2004, Public Law 108–293, August 9, 2004. Where the original text of OPA 90 mandated regulations for TLPM devices, the amended language allowed the Coast Guard discretion with respect to requiring these devices. Congress also directed the Coast Guard to study and report on leak detection alternatives. Thus, we suspended for three years the regulations for TLPM devices so that we could revisit those requirements after conducting a study of potential alternatives for detecting leaks from single-hull tank vessels into the water.

We completed our study and submitted our report to Congress, titled ''Report to Congress on Costs and Benefits of Alternatives to Tank Level or Pressure Monitoring Devices,'' in March 2006. A copy of this report is contained in the docket, USCG–2001–9046. We also notified the public of its availability through a notice published in the **Federal Register** on November 17, 2006. 71 FR 66960.

We noted in our report that no TLPM devices meeting the performance criteria established in the final rule had been submitted to the Coast Guard for approval, and concluded that no manufacturers are likely to invest in development of a TLPM device because single-hull tank vessels are being phased out under other OPA 90 statutes and international agreements. All single-hull tank vessels are scheduled to be out of service by 2015. On the basis of these conclusions and the cost and benefit analyses from the original 2002 rulemaking, we decided to remove the regulations for TLPM devices and reported a rulemaking for this purpose in the Fall 2007 Semiannual Regulatory Agenda. 72 FR 70066, December 10, 2007. The Agenda entry for that rulemaking (RIN 1625–AB94) can be found online at *http://www.reginfo.gov*.

As noted above, the current suspension of the regulations on TLPM devices expires July 21, 2008. 67 FR 58515, July 20, 2005. It is unlikely that we will publish a final rule to remove the regulations by that date. However, immediate action is needed to avoid burdening the tank vessel industry with a requirement to install a piece of shipboard equipment that does not currently exist and putting the Coast Guard in the difficult position of trying to enforce such a regulation. Therefore, in this final rule, we are extending the suspension for three additional years until 2011 to allow us time to seek public comment on a proposal to permanently remove the regulations on TLPM devices from the CFR and, if warranted, publish a final rule. We are taking this action because it maintains for us the flexibility to withdraw the suspension if technology improves, a manufacturer decides to pursue approval of a qualifying TLPM device, or the elements of our rationale to suspend the regulations become invalid. This action also allows us to seek public comment on a proposal to permanently remove the regulations for TLPM devices.

IV. Discussion of Comments

We received two comments on our July 20, 2005 final rule to suspend the regulations for TLPM devices. Both commenters strongly supported our actions, and one of the commenters recommended the Coast Guard take steps to permanently remove the regulations.

V. Regulatory Evaluation

We developed this final rule after considering numerous statutes and executive orders related to rulemaking. We summarize our analysis in the following paragraphs based on 13 of these statutes or executive orders.

A. Administrative Procedure Act

The Coast Guard is issuing this final rule without prior notice and opportunity to comment pursuant to section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes the agency to issue a rule without notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' The agency finds that notice

and public comment to this interim final rule is contrary to the public interest. There is no reason to engage in public notice and comment processes to extend this suspension given that there are no TLPM devices that can satisfy the current requirements.

Engaging in a long process of public notice and comment would also be an impracticable use of scarce agency resources, as there are currently no approved TLPM devices available and therefore no alternatives to extending the suspension. Letting the existing suspension expire while we seek public comment on permanently removing the TLPM device requirement would place an unattainable requirement on vessel owners and operators to purchase and install shipboard equipment that does not exist.

B. Executive Order 12866

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866 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. Extending this suspension would not impose any additional cost on the public.

C. 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.

This rule does not require a general notice of proposed rulemaking and, therefore, is exempt from the requirements of the Regulatory Flexibility Act. Although this rule is exempt, we have reviewed it for potential economic impact on small entities and determined it is unlikely to have any effect on small businesses because extension of the suspension will not impose any costs on the public.

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

D. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L.104–121), the Coast Guard wants to assist small entities in understanding this 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, please consult Ms. Dolores Pyne-Mercier, Coast Guard Office of Design and Engineering Standards, telephone 202–372–1381. We will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

E. 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).

F. 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.

G. 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.

H. Taking of Private Property

This rule will 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.

I. 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, eliminate ambiguity, and reduce burden.

J. 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 does not create an environmental risk to health or risk to safety that may disproportionately affect children.

K. Indian Tribal Governments

This 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.

L. Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. This rule does not affect energy supply, distribution, or use. The Administrator of the Office of Information and Regulatory Affairs has designated this rule as a non-significant regulatory action and it does not require a Statement of Energy Effects under Executive Order 13211.

M. 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 require the use of voluntary consensus standards.

N. Environment

The Coast Guard has analyzed this rule under Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f). We have concluded that this action is not likely to have a significant effect on the human environment and 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 this rule should be categorically excluded from further environmental documentation under

Figure 2–1, paragraph (34) (d) of the Instruction. This rule involves the equipping of vessels. An ''Environmental Analysis Check List'' and a ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects

33 CFR Part 155

Alaska, Hazardous substances, Oil pollution, Reporting and recordkeeping requirements.

33 CFR Part 156

Hazardous substances, Oil pollution, Reporting and recordkeeping requirements, Water pollution control.

■ For the reasons discussed in the preamble, the Coast Guard is amending 33 CFR parts 155 and 156 as follows:

PART 155—OIL OR HAZARDOUS MATERIAL POLLUTION PREVENTION REGULATIONS FOR VESSELS

■ 1. The authority citation for 33 CFR part 155 and the note following citation continue to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); E.O. 11735, 3 CFR, 1971–1975 Comp., p. 793. Sections 155.100 through 155.130, 150.350 through 155.400, 155.430, 155.440, 155.470, 155.1030(j) and (k), and 155.1065(g) are also issued under 33 U.S.C. 1903(b). Sections 155.480, 155.490, 155.750(e), and 155.775 are also issued under 46 U.S.C. 3703. Section 155.490 also issued under section 4110(b) of Pub. L. 101–380. Note: Additional requirements for vessels carrying oil or hazardous materials are contained in 46 CFR Parts 30 through 40, 150, 151, and 153.

§ 155.200 [Amended]

■ 2. In § 155.200, suspend the definition for ''Sea State 5'' from June 4, 2008 until June 6, 2011.

§ 155.490 [Suspended]

■ 3. Suspend § 155.490 from June 4, 2008 until June 6, 2011.

PART 156—OIL AND HAZARDOUS MATERIAL TRANSFER OPERATIONS

■ 4. The authority citation for 33 CFR part 156 continues to read as follows:

Authority: 33 U.S.C. 1231, 1321(j); 46 U.S.C. 3703a, 3715; E.O. 11735, 3 CFR 1971–1975 Comp., p. 793. Section 156.120(bb) and (ee) are also issued under 46 U.S.C. 3703.

§ 156.120 [Amended]

■ 5. In § 156.120, suspend paragraph (ee) from June 4, 2008 until June 6, 2011.

Dated: March 31, 2008.

Brian M. Salerno,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Marine Safety, Security and Stewardship.

[FR Doc. E8–9812 Filed 5–2–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2008–0116–200807a; FRL–8560–3]

Approval and Promulgation of Implementation Plans; Georgia: Enhanced Inspection and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Georgia State Implementation Plan (SIP), submitted by the Georgia Department of Natural Resources (GA DNR), through the Georgia Environmental Protection Division (GA EPD), on December 28, 2007. The revisions include minor changes to Georgia's Air Quality Rules found at Chapter 391–3–20–.17, pertaining to rules for Enhanced Inspection and Maintenance (I/M). Enhanced I/M was required for 1-hour ozone nonattainment areas classified as serious and above, under the Clean Air Act (CAA). The enhanced I/M program is not a required measure for Atlanta for the 8-hour ozone standard pursuant to the CAA because the area is classified as a moderate nonattainment area (73 FR 12013). However, the enhanced I/M program was approved into the SIP for the 1-hour ozone standard and will remain in the SIP until such time that the State removes the requirement. To remove the requirement from the SIP, the State would have to make a demonstration that removal of this program would not interfere with or delay attainment, consistent with section 110(1) of the CAA. The I/M program is a way to ensure that vehicles are maintained properly and verify that the emission control system is operating correctly, in order to reduce vehicle-related emissions. This action is being taken pursuant to section 110 of the CAA.

DATES: This direct final rule is effective July 7, 2008 without further notice, unless EPA receives adverse comment by June 4, 2008. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number, ''EPA–R04–OAR–2008–0116,'' by one of the following methods:

1. *www.regulations.gov*: Follow the on-line instructions for submitting comments.
2. *E-mail: harder.stacy@epa.gov*.
3. *Fax:* 404–562–9019.
4. *Mail:* ''EPA–R04–OAR–2008–0116,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Instructions: Direct your comments to Docket ID Number, ''EPA–R04–OAR–2008–0116.'' 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 through *www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, 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 in *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–9042. Ms. Harder can also be reached via electronic mail at *harder.stacy@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. EPA's Action
II. Analysis of the State's Submittal
III. Final Action
IV. Statutory and Executive Order Reviews

I. EPA's Action

EPA is approving a SIP revision submitted by the GA DNR, through GA EPD on December 28, 2007, pertaining to rules for Georgia's enhanced I/M program. The changes include changes to Georgia's Air Quality Rules, found at Chapters 391–3–20–.17 ''Waivers,'' subparagraph (2)(a). These revisions became State effective on September 26, 2007.

II. Analysis of the State's Submittal

Rule 391–3–20–.17 ''Waivers,'' is being revised to update the set dollar amount for repair costs that may qualify for a waiver from the inspection requirements for the 2008 test year. Specifically, for the 2008 test year, the waiver limit is revised from $738 to $755, of qualifying repairs. For vehicles which otherwise qualify for waivers during the 2007 test year, the waiver limit is revised from $710 to $738, of qualifying repairs. These revisions, which Georgia submits on an annual basis, are based upon consumer price index data, as published by the Federal Bureau of Labor Statistics (see, CAA section 182(c)(3)(C)(iii)). This change does not impose any additional cost to the regulated industry or the public. Additionally, this change has no effect on the emissions reductions claimed in the SIP.

III. Final Action

EPA is taking direct final action to approve the aforementioned revisions, specifically, Chapters 391–3–20–.17 subparagraph (2)(a) into the Georgia SIP. These revisions were submitted by GA EPD on December 28, 2007.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should adverse comments be filed. This rule will be effective July 7, 2008 without further notice unless the Agency receives adverse comments by June 4, 2008.

If EPA receives such comments, EPA will then publish a document withdrawing the direct final rule and informing the public that such rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period. Parties interested in commenting should do so at this time. If no such comments are received, the public is advised that this rule will be effective on July 7, 2008 and no further action will be taken on the proposed rule.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211. ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This rule also does not have tribal implications because it will 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does 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 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. This rule also is not subject to Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it is not economically significant.

In reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. In this context, in the absence of a prior existing requirement for the State to use voluntary consensus standards (VCS), EPA has no authority to disapprove a SIP submission for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a SIP submission, to use VCS in place of a SIP submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the

provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by July 7, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See, section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Dated: April 17 2008.

Russell L. Wright, Jr.

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L—Georgia

■ 2. Section 52.570(c) is amended by revising the entry for ''391–3–20'' to read as follows:

§ 52.570 Identification of plan.

* * * * *

(c) * * *

EPA—APPROVED GEORGIA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation date
*	*	*	*	*
391–3–20	Enhanced inspection and Maintenance	09/26/2007	05/05/2008 [Insert citation of publication].	
*	*	*	*	*

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[FR Doc. E8–9735 Filed 5–2–08; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 00–96; FCC 08–86]

Carriage of Digital Television Broadcast Signals; Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The actions taken in this document represent another step in the Commission's ongoing efforts to complete the transition from analog to digital television. In this document, we amend the rules to require satellite carriers to carry digital-only stations upon request in markets in which they are providing any local-into-local service pursuant to the statutory copyright license, and to require carriage of all high definition (''HD'') signals in a market in which any station's signals are carried in HD.

DATES: Effective June 4, 2008, except the amendments to 47 CFR 76.66(b)(1) and 47 CFR 76.66(d)(2)(vi), which contain new information collection requirements under the PRA and shall not be effective until the FCC publishes a document in the **Federal Register** announcing OMB approval of the effective date of these information collections.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. You may submit comments, identified by CS Docket No. 00–96, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/*. Follow the instructions for submitting comments.

People with Disabilities: Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Cathy Williams, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For more information on this proceeding, please contact Lyle Elder, *Lyle.Elder@fcc.gov*, or Eloise Gore, *Eloise.Gore@fcc.gov*, of the Media Bureau, Policy Division, (202) 418–2120. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Cathy Williams on (202) 418–2918, or via the Internet at *PRA@fcc.gov*.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CS Docket No. 00–96, FCC 08–86, adopted March 19, 2008 and released March 27, 2008. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Paperwork Reduction Act of 1995 Analysis

This document has been analyzed with respect to the Paperwork Reduction Act of 1995 (''PRA'') and contains new and/or modified information collection requirements subject to the Paperwork Reduction Act of 1995, Public Law 104–13. It will be submitted to the Office of Management and Budget (''OMB'') for review under Section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new information collection requirements contained in this proceeding. The Commission will publish a separate **Federal Register** at a seeking these comments. In addition, the Commission notes that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we have assessed ''the information collection burden for small business concerns with fewer than 25 employees.'' The Commission finds that there is unlikely to be an increased administrative burden on businesses with fewer than 25 employees. Although the Commission believes that some small business concerns with fewer than 25 employees will be impacted by the rules adopted herein, we do not believe that the requirements imposed in this document will create an information collection burden for these entities.

Summary of the Report and Order

I. Introduction

1. The actions taken in this Order represent another step in the Commission's ongoing efforts to complete the transition from analog to digital television. In this Order, we amend the rules to require satellite carriers to carry digital-only stations upon request in markets in which they are providing any local-into-local service pursuant to the statutory copyright license, and to require carriage of all high definition (''HD'') signals in a market in which any station's signals are carried in HD. In recognition of the capacity and technological constraints faced by satellite carriers, the latter requirement will be phased-in over a four-year period. These decisions are consistent with section 338 of the Act's instructions that the Commission implement comparable, rather than identical, carriage rules between cable and direct broadcast satellite (''DBS''), and is supported by the record in this proceeding.

II. Background

2. The Communications Act of 1934, as amended (the ''Act''), requires cable systems and satellite carriers to carry the signals of local commercial and noncommercial broadcast stations in their local markets. Cable systems are presumptively required to carry all local television stations in all television markets, while satellite carriers are only required to carry all television stations in a local television market if they carry one local television signal in that market under the compulsory copyright license (''carry-one, carry-all''). Commercial television stations may however, choose to be carried pursuant to voluntary retransmission consent agreements rather than by mandatory carriage. Generally, every three years commercial television stations must elect to either grant retransmission consent or pursue their mandatory carriage rights. Noncommercial (''NCE'') television stations may only elect mandatory carriage (NCE stations do not have retransmission consent rights), but are nonetheless free to negotiate issues related to voluntary carriage with cable operators and satellite carriers.

III. Second Report and Order

3. The Commission's *First Report and Order and Further Notice of Proposed Rulemaking* in this proceeding adopted rules for cable carriage of digital broadcast signals pursuant to retransmission consent and mandatory carriage when a local television station is broadcasting only a digital signal. The Commission concluded that digital-only stations are entitled to elect mandatory cable carriage. The *First Report and Order* did not make a similar determination with respect to satellite carriage, which had only recently been implemented with respect to analog signals. Instead, in the *Further Notice*, we solicited comment on how to implement digital broadcast signal carriage rules for satellite carriers.

A. Digital-Only Carriage

4. We conclude that providing digital-only stations with mandatory satellite carriage in local-into-local markets now furthers the completion of the digital transition by assuring that any station—whether a new digital station or a station that is returning its analog spectrum—will have satellite carriage rights. Section 338(a) of the Act states that satellite carriers must carry, ''upon request the signals of all television broadcast stations located within that local market.'' This provision makes no distinction between analog and digital signals, and we find that any such distinction would be inappropriate. Furthermore, section 338(j) of the Act requires that the rules applying to satellite carriers be ''comparable'' to those governing cable companies in certain areas, including signal carriage. The Commission has required carriage of digital-only stations by cable operators, and a similar requirement is both appropriate and comparable for satellite carriers. This decision ensures that broadcasters and satellite subscribers can be confident of uninterrupted satellite carriage of local stations after the transition to digital broadcasting for all full-power stations that will conclude on midnight, February 17, 2009. This conclusion is particularly important for the stations that are not affiliated with the top four networks and rely on ''must carry'' to reach viewers who are satellite subscribers. Congress adopted the carry-one, carry-all requirements with these stations particularly in mind, and our decision in this Order ensures the continued viability of these stations as they make their transition to all digital service.

B. HD Carry One, Carry All

5. We turn next to the manner of carriage, particularly with respect to material degradation during carriage of HD signals. For the reasons described below, we conclude that satellite carriage of local stations' digital signals should conform to the nondiscrimination requirement adopted by the Commission in 2000. Therefore,

with respect to carriage of digital-only signals, we require satellite carriers to carry each station in the market in the same manner, including carriage of HD signals in HD format if any broadcaster in the same market is carried in HD.

6. The Act requires that the Commission adopt rules for DBS ''comparable'' to those governing cable in the areas of material degradation, signal processing, carriage, and technical capacity. In the *2000 DBS Carriage Order*, the Commission discussed this requirement at length, particularly in regard to the question of material degradation. At that time, the Commission noted that satellite compression technology was evolving rapidly, and was therefore reluctant to adopt specific technical standards for digital carriage. The Commission's conclusion at the time was that treating all local television stations in a market in the same manner with regard to picture quality was the best way to establish regulations comparable to cable while still tailored to the unique circumstances of satellite operation. Thus, the Commission required that the signal processing, compression and encoding techniques a satellite carrier used to carry retransmission consent stations would also be used for mandatory carriage stations. *Id. See also* 47 CFR 76.66(k). We note that the comparability standard applied to cable carriage compares carriage of local stations with any other programming, whether broadcast or non-broadcast. The comparability standard for satellite compares carriage of mandatory carriage local stations to local stations carried pursuant to retransmission consent. This comparability standard for satellite carriers is also consistent with the Act's requirement for nondiscriminatory carriage of local broadcast signals. We find that the approach taken by the Commission in 2000 remains appropriate as we approach the conclusion of the full-power digital transition. Thus, in order to provide for rules comparable to those of cable and consistent with the Commission's 2000 approach, we will continue to require satellite carriers to carry each digital broadcast station in the market in the same manner, including carriage of HD signals in HD format if any broadcaster in the same market is carried in HD.

C. HD Carry-One, Carry-All Phase-In

7. We recognize that satellite carriers face unique capacity, uplink, and ground facility construction issues that must be factored into the timing of any HD ''carry-one, carry-all'' requirement. In recognition of the necessity for additional bandwidth to provide HD carry-one, carry-all, DIRECTV and DISH Network have submitted a joint proposal detailing a four-year phase-in period, starting in 2009, during which markets would be progressively transitioned to HD carry-one, carry-all. This proposal is designed to provide DIRECTV and DISH Network time to address satellite capacity issues inherent in providing HD carry-one, carry-all service.

8. We find the satellite carriers' proposal to be reasonable and technically sound. Satellite carriers have documented in the record that immediate HD carriage requirements would slow the rollout of HD markets and limit the number of markets that can be launched. The record is persuasive that subscribers would be harmed by requirements that take effect on February 18, 2009, if satellite carriers are forced to drop other programming, including broadcast stations now carried in HD pursuant to retransmission consent, in order to free capacity or if they are inhibited from adding new local-into-local markets. Therefore, because of the serious technical difficulties that we find satellite carriers face, we will permit them to ''phase-in'' their carriage of all HD signals on a market-by-market basis. Specifically, we conclude that by February 17, 2010, a satellite carrier must provide carriage of HD broadcast stations, in HD, in at least 15% of the markets in which they carry any station pursuant to the statutory copyright license in HD. This ''HD carry-one, carry-all'' requirement will apply to 30% of a satellite carrier's HD markets no later than February 17, 2011, 60% no later than February 17, 2012, and 100% by February 17, 2013. Satellite carriers are required to carry each digital broadcast station in the market in the same manner, including carriage of HD signals in HD format if any local station in the same market is carried in HD. In addition, satellite carriers will be required to notify all local stations in a market at least 60 days prior to their launch of HD carry-one, carry-all in that market. Our decision implements the statutory requirements in light of the severe technical limitations faced by satellite carriers.

9. Comparability to cable drives the development of DBS rules, but we are conscious that comparable is not the same as identical. We believe that the comparability standard permits a reasonable phase-in period. A significant number of the comments in the record developed in response to the FNPRM advocate and emphasize the importance of comparability. Other commenters, however, caution that rules based on cable ''comparability'' should not ignore the legitimate technical challenges faced by satellite carriers, which differ significantly from those faced by cable operators. We agree that there are important differences between the two services. As cable providers transition from providing analog signals to providing digital standard definition and high definition signals, they realize significant benefits in spectrum efficiency. Where a cable operator previously carried a single analog standard stream, post-transition they potentially carry ten digital standard definition streams, two high definition streams, or some combination of standard and high definition streams. In contrast, DBS service has always been transmitted as a digital signal. Consequently, satellite carriers realize a net loss in the total number of program streams they may carry in a given bandwidth as they transition from standard definition to high definition signals. Where a satellite carrier previously carried approximately four standard definition streams, it is now capable of carrying only one high definition stream. Advanced technologies such as 8PSK modulation, DVB–S2, and advances in digital compression technology, such as MPEG–4 AVC/H.264 and Windows Media Video 9, could potentially increase satellite capacity. However, these likely improvements will be unable to compensate for the inherent differences in the nature of the transition from standard to high definition programming for satellite carriers.

10. Due to the time required to design, construct, and place in service new satellite capacity, as well as the required ground facilities to receive these new digital signals and uplink them to their satellites, satellite carriers must plan capacity availability many years in advance. Currently, DISH Network is providing service using most of its licensed transponders at all of its licensed orbital locations. DIRECTV is also facing bandwidth limitations, in part due to post launch issues with satellite DIRECTV 10 and the delay of satellite DIRECTV 11's launch. In order to meet the requirements of HD carry-one, carry-all for all markets, both DIRECTV and DISH Network assert that they will be required to launch additional satellites. DISH Network February 11, 2008, *ex parte* at 1. DISH Network asserts that it will require three additional satellites to meet its obligations. DIRECTV asserts that it will need at least one more satellite, in addition to the two already planned, to

comply with an HD carry-one, carry-all requirement and that operation in the ''reverse band'' (17/24 GHz) or more Ka band spectrum will be necessary. DIRECTV March 10, 2008, *ex parte* at 1 and DIRECTV February 13, 2008, *ex parte* at 1–2. DIRECTV has recently launched DIRECTV 11, which will expand its DBS capacity. DISH Network considers its next two satellites as replacements for existing satellites in its fleet, and expects little additional capacity as a result. As both parties have attested, satellite construction and launch is a lengthy process, generally taking approximately four years. Both parties have applications for satellites in the new 17/24 GHz BSS service, but these applications are currently pending and it is expected that the construction of the 17/24 GHz BSS satellites will take three years or longer.

11. Further, for satellite carriers, the capacity used for local channels is separate from the capacity used for national channels and the two are generally not interchangeable. As a result, even if a local station is not presently broadcasting in HD or is only broadcasting a minimal amount of HD programming, a satellite carrier must set aside capacity when planning new satellite construction to accommodate the possibility of future HD programming. This capacity would go unused, or lie fallow, until the stations are actually broadcasting in HD. Reservation of otherwise unused ''fallow bandwidth'' is particularly burdensome because a higher percentage of a satellite carrier's capacity is dedicated to local channel carriage relative to the percentage necessary for a cable operator. Thus, while the combined bandwidth of the satellite carriers' entire fleets are substantially larger than that of a cable provider's plant, neither DIRECTV's nor EchoStar's current fleet is capable of carrying in HD all the local stations of all the local-into-local markets they currently serve.

12. The record shows that satellite carriers have legitimate capacity concerns at this time. A phased-in HD carriage requirement would not only give satellite carriers time to increase their capacity, but might also alleviate the problem of potential wasted capacity that might occur from bandwidth lying fallow. At this time, many stations, particularly those not affiliated with the top four networks, are broadcasting relatively little or no HD programming. We believe the demand for such programming will increase as more consumers purchase HD equipment spurred on by falling equipment costs and a broader choice of available programming. With increased demand and assurance of future satellite carriage, broadcasters will be more likely to invest the funds necessary to begin HD broadcasting. A phased-in HD carriage requirement with a defined time schedule will encourage broadcasters in their HD efforts as well as help satellite carriers avoid having to reserve capacity for stations not ready to use it.

13. We adopt the phase-in schedule for satellite carriage of all HD signals in part to afford satellite carriers the time and flexibility to launch local-into-local service in more markets. They will be working on a wide array of technical issues as they develop HD carry-one, carry-all for their HD markets, and we strongly encourage them to keep nationwide service in mind as they design, develop, and plan the use of their capacity.

14. Although we do not adopt rules in this Order requiring the expansion of local-into-local service by satellite carriers, we recognize that the availability of local broadcast signals in markets unserved by satellite would constitute a significant consumer benefit. Currently 182 of 210 United States market areas have local-into-local service from at least one of the national satellite carriers. Satellite-delivered local-into-local service throughout the nation would promote competition, localism, and diversity, particularly where broadcast signals cannot be received off-air. In those areas, residents are dependent on cable—where available—for the important local news, weather, and emergency information provided by local broadcasters. Thus, expanded satellite-delivered local-into-local service in all 210 television markets would serve the public interest.

D. Other Issues

15. *Carriage Election.* Pursuant to the Commission's decision in this Order, in any market in which a satellite carrier is currently offering or in the future offers local-into-local service pursuant to the statutory copyright license in 17 U.S.C. 122, it must carry digital-only stations in that market upon request. In markets currently subject to ''carry-one, carry-all,'' the rules pertaining to new stations will govern carriage elections for digital-only stations (whether new stations or stations that have returned their analog spectrum) and satellite carriers. We do not believe it is necessary to amend the rule concerning new stations, but we determine in this Order that a station that turns off its analog signal and returns its licensed spectrum to the Commission and commences operation in digital-only prior to January 1, 2009, constitutes a ''new station'' for purposes of this rule. For markets in which local-into-local service is initiated after the release of this Order, stations and carriers should follow the rules for ''new local-into-local service.'' By operation of this Order, digital-only stations are entitled to request carriage.

16. In compliance with the statutory mandate in section 325 of the Act, the Commission established a regular schedule for carriage elections. In accordance with this schedule, the Act requires broadcasters to elect, by October 1, 2008, whether they wish to engage in retransmission consent negotiations with satellite carriers or request mandatory carriage for the three-year period beginning January 1, 2009. We conclude here that if a station elects must carry on October 1, 2008, for the 2009–2011 carriage cycle, satellite carriers must provide carriage of the station's analog signal beginning (or continuing) on January 1, 2009, and concluding no earlier than the actual termination of analog service by that broadcaster. Once the station terminates analog service and begins broadcasting in digital, the carrier shall commence carriage of the station's digital signal without any gap in carriage. To facilitate carriage and the final transition process, beginning January 1, 2009, satellite carriers must immediately commence carriage of the digital signal of stations that cease analog broadcasting prior to the February 17, 2009, statutory deadline; provided, however, that broadcasters must notify the satellite carrier(s) on or before October 1, 2008, of the date on which they anticipate termination of their analog signal if it will be earlier than February 17, 2009.

17. *Program-Related.* The Commission's rules for satellite carriage, adopted to implement section 338(j) of the Act, include the same program-related requirements as apply to cable. We conclude that certain over-the-air digital services, such as closed-captioning information and V-chip information, are sufficiently and incontrovertibly related to the broadcaster's primary digital video programming such that satellite carriers will be required to carry them when they carry a digital-only station (as we also require in the cable context).

18. *Signal Quality.* With respect to signal quality, because broadcast of digital signals differs from broadcast of analog signals, we must adjust the requirement for a good quality signal. In the context of cable carriage, the Commission has stated that the signal level necessary to provide a good quality digital television signal at a

cable system's principal headend is −61 dBm. Broadcast stations must similarly deliver a good quality signal to a satellite carrier's designated local receive facility. For purposes of carriage by satellite carriers, we determine that −61 dBm is the signal level necessary to provide a good quality digital television signal at a satellite carrier's local receive facility. This is the same digital signal quality standard that our rules require in the cable context, and is consistent with our adoption of the same analog signal level for satellite as we used for cable carriage of analog signals. The technology available to cable carriers for digital television signal reception is also available to satellite carriers, and there is nothing in the record to suggest that satellite carriers would require a different digital television signal level to obtain the reception quality necessary to carry the digital television signal. We therefore adopt this signal level.

IV. Procedural Matters

A. Final Regulatory Flexibility Act Analysis

19. As required by the Regulatory Flexibility Act of 1980 (''RFA''), the Commission has prepared a Final Regulatory Flexibility Analysis (''FRFA'') relating to this *Second Report and Order*. The FRFA, which was contained in Appendix A of the *Report and Order*, is set forth below.

20. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the *Further Notice of Proposed Rulemaking (Further NPRM)*. The Commission sought written public comment on the proposals in the Notice, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

1. Need for, and Objectives of, the *Report and Order*

21. This *Report and Order* adopts rules requiring satellite carriers to carry digital-only stations upon request in markets in which they are providing any local-into-local service pursuant to the statutory copyright license, and to require carriage of all high definition (''HD'') signals in a market in which any station's signals are carried in HD. In recognition of the capacity and technological constraints faced by satellite carriers, the latter requirement will be phased-in over a four-year period. Our goals in adopting these rules are to facilitate the nation's transition to digital broadcast television; to ensure that satellite subscribers will be able to experience the benefits of the digital transition by continued access to broadcast signals after the digital transition; and to ensure consistency with section 338's instructions that the Commission implement comparable, rather than identical, carriage rules between cable and DBS.

2. Summary of Issues Raised by Public Comments in Response to the IRFA

22. None.

3. Description and Estimate of the Number of Small Entities to Which the *Report and Order* Will Apply

23. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under section 3 of the Small Business Act. Under the Small Business Act, a small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The rules adopted herein will directly affect small television broadcast stations and small satellite carriers. A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

24. *Television Broadcasting*. The SBA defines a television broadcasting station as a small business if such station has no more than $13.0 million in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' The Commission has estimated the number of licensed commercial television stations to be 1,376. According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database (BIA) on March 30, 2007, about 986 of an estimated 1,374 commercial television stations (or approximately 72 percent) have revenues of $13.0 million or less and thus qualify as small entities under the SBA definition. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 380. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

25. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

26. *Satellite Carriers*. The term ''satellite carrier'' includes entities providing services as described in 17 U.S.C. 119(d)(6) using the facilities of a satellite or satellite service licensed under Part 25 of the Commission's rules to operate in Direct Broadcast Satellite (DBS) or Fixed-Satellite Service (FSS) frequencies. As a general practice, not mandated by any regulation, DBS licensees usually own and operate their own satellite facilities as well as package the programming they offer to their subscribers. In contrast, satellite carriers using FSS facilities often lease capacity from another entity that is licensed to operate the satellite used to provide service to subscribers. These entities package their own programming and may or may not be Commission licensees themselves. In addition, a third situation may include an entity using a non-U.S. licensed satellite to provide programming to subscribers in the United States pursuant to a blanket earth station license. Since 2007, the SBA has recognized satellite television distribution services within the broad economic census category of Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. The most current Census Bureau data, however, are from the last economic census of 2002, and we will use those figures to gauge the prevalence of small businesses in this

category. Those size standards are for the two census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under both prior categories, such a business was considered small if it had $13.5 million or less in average annual receipts.

27. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of Wired Telecommunications Carriers. However, as discussed above, we rely on the previous size standard, Cable and Other Subscription Programming, which provides that a small entity is one with $13.5 million or less in annual receipts. Currently, only two operators—DirecTV and EchoStar Communications Corporation (''EchoStar'')—hold licenses to provide DBS service, which requires a great investment of capital for operation. Both currently offer subscription services and report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS licensee. Nevertheless, given the absence of specific data on this point, we acknowledge the possibility that there are entrants in this field that may not yet have generated $13.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

28. *Fixed-Satellite Service (''FSS'').* The FSS is a radiocommunication service between earth stations at a specified fixed point or between any fixed point within specified areas and one or more satellites. The FSS, which utilizes many earth stations that communicate with one or more space stations, may be used to provide subscription video service. Therefore, to the extent FSS frequencies are used to provide subscription services, FSS falls within the SBA-recognized definition of Wired Telecommunications Carriers. However, as discussed above, we rely on the previous size standard, Cable and Other Subscription Programming, which provides that a small entity is one with $13.5 million or less in annual receipts. Although a number of entities are licensed in the FSS, not all such licensees use FSS frequencies to provide subscription services. Both of the DBS licensees (EchoStar and DirecTV) have indicated interest in using FSS frequencies to broadcast signals to subscribers. It is possible that other entities could similarly use FSS frequencies, although we are not aware of any entities that might do so.

4. Description of Projected Reporting, Record Keeping, and Other Compliance Requirements for Small Entities

29. The rules adopted by this *Report and Order* primarily impose requirements on satellite carriers, and as discussed above few if any satellite carriers qualify as small entities. They require satellite carriers to carry digital-only stations upon request in markets in which they are providing any local-into-local service pursuant to the statutory copyright license, and require carriage of all HD signals in a market in which any station's signals are carried in HD. The carriage election rule requires notice to satellite carriers from broadcasters, including small broadcasters, but the *Report and Order* makes no changes to the rule. The one-time requirement that broadcasters notify satellite carriers of their station's transition date when making their carriage election is a *de minimis* additional burden on small broadcasters.

5. Steps Taken To Minimize Significant Impact on Small Entities, and Significant Alternatives Considered

30. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.

31. As a result of these rules, any small satellite carriers will face additional costs if they choose to provide local-into-local service, in that these rules impose additional requirements on the provision of local-into-local service, compliance with which will require the use of more technical capability than would otherwise have been the case. We note that these costs will not be any greater for small than for large companies, and we find that these rules are necessary in order to achieve the Commission's goals, discussed above.

32. As noted above, any additional costs borne by small broadcasters will be *de minimis*, consisting solely of additional information being provided in an existing communication. Furthermore, this additional information is designed to benefit broadcasters, by ensuring that their signals are carried without interruption after the transition. Thus, no alternative rule would be appropriate.

6. Report to Congress

33. The Commission will send a copy of the *Second Report and Order,* including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Second Report and Order,* including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Second Report and Order* and FRFA (or summaries thereof) will also be published in the **Federal Register**.

B. Paperwork Reduction Act of 1995 Analysis

34. The *Second Report and Order* has been analyzed with respect to the Paperwork Reduction Act of 1995 (''PRA''). This document contains new information collection requirements (section 76.66(b)(1), section 76.66(d)(2)(vi) and the non-rule requirement at paragraph 16 of this document) subject to the Paperwork Reduction Act of 1995, Public Law 104–13. The information collection requirements contained in this document will be submitted to the Office of Management and Budget (''OMB'') for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new information collection requirements contained in this proceeding. In addition, we note that, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we have assessed ''the information collection burden for small business concerns with fewer than 25 employees.'' We find that there is unlikely to be an increased administrative burden on businesses with fewer than 25 employees. Although we believe that some small business concerns with fewer than 25 employees will be impacted by the rules adopted herein, we do not believe that the requirements imposed in this document will create an information collection burden for these entities.

C. Congressional Review Act

35. The Commission will include a copy of this *Second Report and Order and Memorandum Opinion and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

D. Additional Information

36. For more information on this *Second Report and Order,* please contact Lyle Elder, *Lyle.Elder@fcc.gov,* or Eloise Gore, *Eloise.Gore@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

V. Ordering Clauses

37. Accordingly, *It is ordered,* that, pursuant to authority found in sections 4(i), 4(j), 303(r), 325, 336, 338, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 325, 336, 338, 534, and 535, this *Second Report and Order* is *hereby adopted* and the Commission's Rules are hereby amended as set forth in Appendix C of this Order. Section 76.66(k) is effective June 4, 2008. 47 CFR 76.66(b)(1) and 47 CFR 76.66(d)(2)(vi) contain new information collection requirements under the PRA and shall not be effective until the FCC publishes a document in the **Federal Register** announcing OMB approval of the effective date of these information collections.

38. *It is further ordered* that a station that commences operation as digital-only after this *Second Report and Order* is effective but before January 1, 2009, either because it is licensed to broadcast only a digital signal or because it turns off its analog signal and returns its licensed spectrum to the Commission and commences operation in digital-only, constitutes a ''new station'' for purposes of section 76.66(d)(3) of the Commission's Rules, 47 CFR 76.66(d)(3), and may request carriage as provided in that rule.

39. *It is further ordered* that the Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this *Second Report and Order, Memorandum Opinion and Order, and Second Further Notice of Proposed Rulemaking,* including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

40. *It is further ordered* that the Commission *shall send* a copy of this *Second Report and Order and Second Further Notice of Proposed Rulemaking* in a report to be sent to Congress and the General Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 76

Cable television, Digital television, Multichannel video programming distributors, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the Federal Communications Commission amends 47 part 76 as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

■ 1. The authority citation for part 76 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 336, 339, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

■ 2. Section 76.66 is amended by revising paragraph (b)(1), by adding paragraph (d)(2)(vi), and by revising paragraph (k) to read as follows:

§ 76.66 Satellite broadcast signal carriage.

* * * * *

(b) * * *

(1) Each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station, shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b) of title 47, United States Code, and other paragraphs in this section. Satellite carriers are required to carry digital-only stations upon request in markets in which the satellite carrier is providing any local-into-local service pursuant to the statutory copyright license.

* * * * *

(d) * * *

(2) * * *

(vi) Satellite carriers shall notify all local stations in a market of their intent to launch HD carry-one, carry-all in that market at least 60 days before commencing such carriage.

* * * * *

(k) *Material degradation.* (1) Each local television station whose signal is carried under mandatory carriage shall, to the extent technically feasible and consistent with good engineering practice, be provided with the same quality of signal processing provided to television stations electing retransmission consent, including carriage of HD signals in HD if any local station in the same market is carried in HD. A satellite carrier is permitted to use reasonable digital compression techniques in the carriage of local television stations.

(2) Satellite carriers must provide carriage of local stations' HD signals if any local station in the same market is carried in HD, pursuant to the following schedule:

(i) In at least 15% of the markets in which they carry any station pursuant to the statutory copyright license in HD by February 17, 2010;

(ii) In at least 30% of the markets in which they carry any station pursuant to the statutory copyright license in HD no later than February 17, 2011;

(iii) In at least 60% of the markets in which they carry any station pursuant to the statutory copyright license in HD no later than February 17, 2012; and

(iv) In 100% of the markets in which they carry any station pursuant to the statutory copyright license in HD by February 17, 2013.

* * * * *

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Proposed Rules

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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 DEFENSE

Office of the Secretary

[DoD–2008–HA–0007; 0720–AB21]

32 CFR Part 199

TRICARE; Reimbursement of Critical Access Hospitals (CAHs)

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Proposed rule.

SUMMARY: This rule is being published to implement the statutory provision in 10 United States Code (U.S.C.) 1079(j)(2) that TRICARE payment methods for institutional care be determined to the extent practicable in accordance with the same reimbursement rules as those that apply to payments to providers of services of the same type under Medicare. This proposed rule implements a reimbursement methodology similar to that furnished to Medicare beneficiaries for services provided by critical access hospitals (CAHs).

DATES: Written comments received at the address indicated below by June 4, 2008 will be accepted.

ADDRESS: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) number and title, by either of the following methods:

- *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name and docket number or RIN for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Martha M. Maxey, TRICARE Management Activity, Medical Benefits and Reimbursement Systems, telephone (303) 676–3627.

SUPPLEMENTARY INFORMATION:

I. Introduction and Background

Hospitals are authorized TRICARE institutional providers under 10 U.S. Code 1079(j)(2) and (4). Under 10 U.S.C. 1079(j)(2), the amount to be paid to hospitals, skilled nursing facilities (SNFs), and other institutional providers under TRICARE, ''shall be determined to the extent practicable in accordance with the same reimbursement rules as apply to payments to providers of services of the same type under Medicare.'' Under 32 CFR 199.14(a)(1)(ii)(D)(1) through (9) it specifically lists those hospitals that are exempt from the DRG-based payment system. CAHs are not listed as exempt, thereby making them subject to the DRG-based payment system. CAHs are not listed as excluded, because at the time this regulatory provision was written, CAHs were not a recognized entity.

Legislation enacted as part of the Balanced Budget Act (BBA) of 1997 authorized states to establish State Medicare Rural Hospital Flexibility Programs, under which certain facilities participating in Medicare could become CAHs. CAHs represent a separate provider type with their own Medicare conditions of participation as well as a separate payment method of 101 percent of reasonable costs. Since that time, a number of hospitals have taken the necessary steps to be designated as CAHs by the Centers for Medicare & Medicaid Services (CMS). The statutory authority requires TRICARE to apply the same reimbursement rules as apply to payments to providers of services of the same type under Medicare to the extent practicable. Therefore, if practicable, TRICARE has the requirement through the publication of a proposed and final rule to exempt critical access hospitals from the DRG-based payment system and adopt a reimbursement method similar to Medicare principles for these hospitals. Until now, we have not amended 32 CFR 199.14(a)(1)(ii)(D) to exempt CAHs from the DRG-based payment system as it was deemed impracticable to replicate CMS' reimbursement methodology for CAHs because of a lack of access to facility-specific cost data. CMS has data on the costs at each of the CAHs and has indicated that it would provide whatever data TMA needed on these costs reports.

Currently under TRICARE, with the exception of Alaska, CAHs are subject to the TRICARE DRG-based payment system for inpatient care. For outpatient care, CAHs are reimbursed based on billed charges for facility charges. In Alaska, under a demonstration project, CAHs are reimbursed under a method similar to Medicare principles. They are reimbursed the lesser of the billed charge or 101 percent of reasonable costs for inpatient and outpatient care. The 101 percent of reasonable costs is calculated by multiplying the billed charge of each claim by the hospital's cost-to-charge ratio, and then adding 1 percent to that amount. The demonstration project in Alaska is working well. There have been no complaints since the new reimbursement methodology was implemented and it has resolved access to care issues in that State. Based on the above statutory mandate, TRICARE is proposing to adopt this same reimbursement methodology for all CAHs.

II. Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review''

Section 801 of Title 5, U.S.C., and Executive Order (E.O.) 12866 requires certain regulatory assessments and procedures for any major rule or significant regulatory action, defined as one that would result in an annual effect of $100 million or more on the national economy or which would have other substantial impacts. It has been certified that this rule is not an economically significant rule; however, it is a regulatory action which has been reviewed by the Office of Management and Budget as required under the provisions of E.O. 12866.

Section 202, Public Law 104–4, ''Unfunded Mandates Reform Act''

It has been certified that this rule does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or

by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

The Regulatory Flexibility Act (RFA) requires each Federal agency prepare, and make available for public comment, a regulatory flexibility analysis when the agency issues a regulation which would have a significant impact on a substantial number of small entities. This rule will not significantly affect a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

This rule will not impose any additional information collection requirements on the public under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3511). Existing information collection requirements of the TRICARE and Medicare programs will be utilized.

Executive Order 13132, ''Federalism''

This proposed rule has been examined for its impact under E.O. 13132. It does not contain policies that have federalism implications that would 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; therefore, consultation with State and local officials is not required.

List of Subjects in 32 CFR Part 199

Claims, dental health, health care, health insurance, individuals with disabilities, Military personnel.

Accordingly, 32 CFR part 199 is proposed to be amended as follows:

PART 199—[AMENDED]

1. The authority citation for part 199 continues to read as follows:

Authority: 5 U.S.C. 301; 10 U.S.C. Chapter 55.

2. Paragraph 199.2(b) is amended by adding a definition for CAHs and placing it in alphabetical order to read as follows:

§ 199.2 Definitions.

* * * * *

(b) * * *

CAHs. A small facility that provides limited inpatient and outpatient hospital services primarily in rural areas and meets the applicable requirements established by § 199.6(b)(4)(xvi).

* * * * *

3. Section 199.6 is amended by adding new paragraph (b)(4)(xvi).

§ 199.6 TRICARE-authorized providers.

* * * * *

(b) * * *

(4) * * *

(xvi) *CAHs.* CAHs must meet all conditions of participation under 42 CFR part 485.601–485.645 in relation to TRICARE beneficiaries in order to receive payment under the TRICARE program. If CAH provides inpatient psychiatric services or inpatient rehabilitation services in a distinct part unit, these distinct part units must meet the conditions of participation in 42 CFR part 485.647, with the exception of being paid under the inpatient prospective payment system for psychiatric facilities as specified in 42 CFR part 412.1(a)(2) or the inpatient prospective payment system for rehabilitation hospitals or rehabilitation units as specified in 42 CFR part section 412(a)(3).

* * * * *

4. Section 199.14 is amended by redesignating paragraphs (a)(3) through (a)(5) as (a)(4) through (a)(6); revising newly redesignated paragraph (a)(4) introductory text, paragraphs (a)(6)(xi) and (xii), and the first sentence of paragraph (d)(1); and adding new paragraphs (a)(1)(ii)(D)(*10*), (a)(3), and (a)(6)(xiii) to read as follows:

§ 199.14 Provider reimbursement methods.

(a) * * *

(1) * * *

(ii) * * *

(D) * * *

(*10*) *CAHs.* Any facility which has been designated and certified as CAH as contained in 42 CFR part 485.606.

* * * * *

(3) *Reimbursement for inpatient services provided by CAH.* Inpatient services provided by CAH, other than services provided in psychiatric and rehabilitation distinct part units, shall be reimbursed at the lesser of the billed charge or 101 percent of reasonable costs. This does not include any costs of physician services or other professional services provided to CAH inpatients. Inpatient services provided in psychiatric distinct part units would be subject to the CHAMPUS mental health per diem payment system. Inpatient services provided in rehabilitation distinct part units would be subject to billed charges or set rates.

(4) *Billed charges and set rates.* The allowable costs for authorized care in all hospitals not subject to the CHAMPUS Diagnosis Related Group-based payment system, the CHAMPUS mental health per diem system, or the reasonable cost method for critical access hospitals, shall be determined on the basis of billed charges or set rates. Under this procedure the allowable costs may not exceed the lower of:

* * * * *

(6) * * *

(xi) *Facility charges.* TRICARE payments for hospital outpatient facility charges that would include the overhead costs of providing the outpatient service, with the exception of critical access hospitals, would be paid as billed. For the definition of facility charge, see § 199.2(b).

(xii) *Ambulatory surgery services.* Hospital outpatient ambulatory surgery services, with the exception of CAHs, shall be paid in accordance with § 199.14(d).

(xiii) *Outpatient services provided by CAH.* Outpatient services provided by CAH, to include ambulatory surgery services, shall be reimbursed at the lesser of the billed charge or 101 percent of reasonable costs. This does not include any costs of physician services or other professional services provided to CAH outpatients.

* * * * *

(d) * * *

(1) *In general.* CHAMPUS pays institutional facility costs for ambulatory surgery on the basis of prospectively determined amounts, as provided in this paragraph, with the exception of ambulatory surgery procedures performed in CAHs, which are to be reimbursed in accordance with the provisions of paragraph (a)(6)(xiii) of this section. * * *

* * * * *

Dated: April 28, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9800 Filed 5–2–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2008–0100]

RIN 1625–AA09

Drawbridge Operation Regulation; Wabash River, IL; Permanent Change to Operating Schedule

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes amending the regulation for the

operation of drawbridges across the Wabash River in Illinois, in order to reflect the needs of navigation.

DATES: Comments and related material must reach the Coast Guard on or before June 4, 2008.

ADDRESSES: You may submit comments identified by Coast Guard docket number USCG–2008–0100 to the Docket Management Facility at the U.S. Department of Transportation. To avoid duplication, please use only one of the following methods:

(1) *Online: http://www.regulations.gov*.

(2) *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001.

(3) *Hand Delivery:* Room W12–140 on the Ground Floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

(4) *Fax:* 202–493–2251.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call Mr. Roger Wiebusch, Bridge Administrator, (314) 269–2378. If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related materials. All comments received will be posted, without change, to *http://www.regulations.gov* and will include any personal information you have provided. We have an agreement with the Department of Transportation (DOT) to use the Docket Management Facility. Please see DOT's ''Privacy Act'' paragraph below.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (USCG–2008–0100), indicate the specific section of this document to which each comment applies, and give the reason for each comment. We recommend that you include your name and a mailing address, an e-mail address, or a phone number in the body of your document so that we can contact you if we have questions regarding your submission. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**; but please submit your comments and material by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* at any time. Enter the docket number for this rulemaking (USCG–2008–0100) in the search box, and click ''Go>>.'' You may also visit either the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays or the Robert A. Young Federal Building, Room 2.107F, 1222 Spruce Street, St. Louis, MO 63103–2832, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Privacy Act

Anyone can 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 the Department of Transportation's Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://DocketsInfo.dot.gov*.

Public Meeting

We do not now plan to hold a public meeting. But you may submit a request for one to the Docket Management Facility 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

The Wabash River is a 475 mile long river in the eastern United States that flows generally southwest from Ohio, through Indiana, to Kentucky. The System rises in the vicinity of St. Henry, Ohio and flows across northern Indiana to Illinois where it forms the southern Illinois-Indiana border before draining into the Ohio River. The Wabash River flows into the Ohio River near Uniontown, Kentucky. The Wabash River drawbridge operation regulation contained in 33 CFR 117.397 states that all drawbridges shall open on signal if given 72 hours advance notice. The Coast Guard has determined that this regulation is no longer necessary due to the lack of navigation on the river. We propose amending 33 CFR 117.397 so that drawbridges on the Wabash River, in Illinois, will no longer have to open for the passage of vessels. We have consulted with the local marine industry, which has raised no objections or concerns regarding this proposed action.

Discussion of Proposed Rule

The proposed changes to 33 CFR 117.397 will reflect the current needs of navigation on the Wabash River. The last request for opening of a drawspan on the Wabash River was in 1991. The U.S. Army Corps of Engineers does not maintain any project depth or navigable channel on the river. Commercial use of the waterway is only possible during periods of high water. During these periods ''snag and debris removal'' operations are carried out by small commercial vessels that can safely pass beneath all closed drawspans on the waterway.

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The drawbridges of the Wabash River do not presently open for the passage of vessels due to the lack of navigation on the river. The last recorded opening of a Wabash River drawspan was in 1991. Consultation with bridge owners indicated that currently no bridge on the Wabash River has a bridge tender position assigned to it. Therefore, no jobs will be lost, nor will any forms of commerce be disrupted by the proposed rule.

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 is neutral to all business entities since it only clarifies how the bridges are operated.

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 Mr. Roger K. Wiebusch, Bridge Administrator, Eighth Coast Guard District, Bridge Branch, at (314) 269–2378. 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 proposed 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, eliminate 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 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 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 M16475.1D 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 this action is not likely to have a significant effect on the human environment because it simply promulgates the operating regulations or procedures for drawbridges. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

List of Subjects in 33 CFR Part 117

Bridges.

Words of Issuance and Proposed Regulatory Text

For the reasons discussed in the preamble, the Coast Guard proposes to amend 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; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

2. Revise § 117.397 to read as follows:

§ 117.397 Wabash River.

The draws of the bridges across the Wabash River need not be opened for the passage of vessels.

Dated: April 17, 2008.

J.H. Korn,

Captain U.S. Coast Guard, Acting Commander, 8th Coast Guard District.

[FR Doc. E8–9813 Filed 5–2–08; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0327]

RIN 1625–AA00

Safety Zone; Swim the Bay Event, Presque Isle Bay, Erie, PA

AGENCY: Coast Guard, DHS.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Coast Guard proposes establishment of a safety zone for a Swimming Race in the Captain of the Port Buffalo zone. This proposed rule is intended to restrict vessels from portions of water during events that pose a hazard to public safety. The safety zone established by this proposed rule is necessary to protect spectators, participants, and vessels from the hazards associated with a Swimming Race.

DATES: Comments and related materials must reach the Coast Guard on or before June 4, 2008.

ADDRESSES: You may mail comments and related material to Commander, Coast Guard Sector Buffalo, 1 Fuhrmann Boulevard, Buffalo, NY 14203. Sector Buffalo Prevention Department 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 Coast Guard Sector Buffalo between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have further questions on this rule, contact Lieutenant Tracy Wirth, U.S. Coast Guard Sector Buffalo, at (716) 843–9573.

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 [USCG–2008–0327], 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 to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material 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, Coast Guard Sector Buffalo 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

Temporary safety zones are necessary to ensure the safety of vessels and spectators from the hazards associated with Swimming Races. Based on recent accidents that have occurred in other Captain of the Port zones, the Captain of the Port Buffalo, has determined Swimming races pose significant risks to public safety and property. The likely combination of large numbers of recreational vessels, congested waterways, and alcohol use, could easily result in serious injuries or fatalities.

Discussion of Proposed Rule

The proposed rule and associated safety zones are necessary to ensure the safety of vessels and people during events in the Captain of the Port Buffalo area of responsibility that may pose a hazard to the public. The proposed safety zone is described in subparagraphs (a) of this regulation. The proposed safety zone will be enforced only immediately before and during the event which poses hazard to the public and only upon notice by the Captain of the Port. The Captain of the Port Buffalo will cause notice of enforcement of the safety zone established by this section to be made by all appropriate means to the affected segments of the public including publication in the **Federal Register** in accordance with 33 CFR 165.7(a). Such means of notification may also include, but are not limited to, Broadcast Notice to Mariners or Local Notice to Mariners. The Captain of the Port will issue a Broadcast Notice to Mariners notifying the public when enforcement of the safety zone established by this section is suspended.

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.

We expect the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation is unnecessary.

The Coast Guard's use of this safety zone will be periodic in nature, of short duration, and designed to minimize the impact on navigable waters. This safety zone will only be enforced immediately before and during the time the event occurs. Furthermore, this safety zone has been designed to allow vessels to transit unrestricted to portions of the waterway not affected by the safety zone. The Coast Guard expects insignificant adverse impact to mariners from the activation of this safety zone.

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 affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the area designated as the safety zone in subparagraph (a) during the date and time the safety zone is being enforced. This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. The safety zone in this proposed rule would be in effect for short periods of time and only once per year. The safety zone has been designed to allow traffic to pass safely around the zone whenever possible and vessels will be allowed to pass through

the zone with the permission of the Captain of the Port.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this proposed 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 proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact LT Tracy Wirth, Prevention Department, Coast Guard Sector Buffalo, Buffalo, NY at (716) 843–9573. 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 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 proposed 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 expenditure, we do discuss the effects of this proposed rule elsewhere in this preamble.

Taking of Private Property

This proposed rule will not effect the 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, eliminate 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 proposed rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these special local regulations and fishing rights protection need not be incompatible. We have also determined that 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. Nevertheless, Indian tribes that have questions concerning the provisions of this proposed rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

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 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 this action is not likely to have a significant impact on the human environment. A preliminary ''Environmental Analysis Check List'' is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from the proposed rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T09–006 to read as follows:

§ 165.T09–006 Safety Zone; Swim the Bay Event, Presque Isle Bay, Erie, PA.

(a) *Location.* The following area is a temporary safety zone: all waters of Presque Isle Bay, Erie, PA starting in position 47°07′28″ N, 080°07′50″ W heading northwest to position 42°07′21″ N, 080°08′44″ W then south to 42°07′13″ N, 080°08′46″ W then east to 042°07′15″ N, 080°08′06″ W. The starting and finishing positions are the Erie Yacht Club.

(b) *Effective Period.* This regulation is effective from 9 a.m. to 11 a.m. on June 28, 2007.

(c) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels must comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene patrol personnel. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the U.S. Coast Guard. Upon being hailed by a U.S. Coast Guard vessel via siren, radio, flashing light, or other means, the operator shall proceed as directed.

(3) Commercial vessels may request permission from the Captain of the Port Buffalo to transit the safety zone. Approval will be made on a case-by-case basis. Requests must be made in advance and approved by the Captain of the Port before transits will be authorized. The Captain of the Port may be contacted via U.S. Coast Guard Sector Buffalo on Channel 16, VHF–M.

Dated: April 14, 2008.

S.J. Ferguson,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. E8–9814 Filed 5–2–08; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

4O CFR Part 52

[EPA–R04–OAR–2008–O1 16–200807b; FRL–8560–4]

Approval and Promulgation of Implementation Plans; Georgia: Enhanced Inspection and Maintenance Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Georgia State Implementation Plan (SIP), submitted by the Georgia Department of Natural Resources, through the Georgia Environmental Protection Division, on December 28, 2007. The revisions include minor changes to Georgia's Air Quality Rules found at Chapter 391–3 20–.17, pertaining to rules for Enhanced Inspection and Maintenance (I/M). Enhanced I/M was required for 1-hour ozone nonattainment areas classified as serious and above, under the Clean Air Act (CAA). The enhanced I/M program is not a required measure for Atlanta for the 8-hour ozone standard pursuant to the CAA because the area is classified as a moderate nonattainment area (73 FR 12013). However, the enhanced I/M program was approved into the SIP for the 1-hour ozone standard and will remain in the SIP until such time that the State removes the requirement. To remove the requirement from the SIP, the State would have to make a demonstration that removal of this program would not interfere with or delay attainment consistent with section 110(1) of the CAA. The I/M program is a way to ensure that vehicles are maintained properly and verify that the emission control system is operating correctly, in order to reduce vehicle-related emissions. Specifically, the changes update the amount of repair costs that may qualify for a waiver for 2008.

This action is being taken pursuant to section 110 of the CAA. In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this proposal. Any parties interested in commenting on this proposal should do so at this time.

DATES: Written comments must be received on or before June 4, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R04–OAR–2008–0116, by one of the following methods:

1. *www.regulations.gov:* Follow the on-line instructions for submitting comments.
2. *E-mail: harder.stacy@epa.gov.*
3. *Fax:* (404) 562–9019.
4. *Mail:* ''EPA–R04–OAR–2008–0116,'' Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960.
5. *Hand Delivery or Courier:* Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Such deliveries are only accepted during the Regional Office's normal hours of operation. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding federal holidays.

Please see the direct final rule which is located in the Rules section of this **Federal Register** for detailed instructions on how to submit comments.

FOR FURTHER INFORMATION CONTACT: Stacy Harder, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. The telephone number is (404) 562–8965. Ms. Harder can also be reached via electronic mail at *harder.stacy@epa.gov.*

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the Rules Section of this **Federal Register**.

Dated: April 17, 2008.

Russell L. Wright, Jr.,

Acting Regional Administrator, Region 4.

[FR Doc. E8–9732 Filed 5–2–08; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 00–96; FCC 08–86]

Carriage of Digital Television Broadcast Signals; Implementation of the Satellite Home Viewer Improvement Act of 1999: Local Broadcast Signal Carriage Issues and Retransmission Consent Issues

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document seeks comment on the application of the statutory requirement for nondiscriminatory treatment in carriage of standard definition (''SD'') and high definition (''HD'') signals. Satellite

carriers should be required to carry the signals of all local broadcast stations in HD and SD if they carry the signals of any local station in the same market in both HD and SD so that subscribers without HD-capable equipment will be able to view all stations. That is, the Commission seeks comment on whether the Communications Act would prohibit satellite carriers from carrying some broadcast stations in both HD and SD but not others.

DATES: Comments for this proceeding are due on or before June 4, 2008; reply comments are due on or before June 19, 2008.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. You may submit comments, identified by CS Docket No. 00–96, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Federal Communications Commission's Web site: http://www.fcc.gov/cgb/ecfs/*. Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by e-mail: *FCC504@fcc.gov* or phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For more information on this proceeding, please contact Lyle Elder, *Lyle.Elder@fcc.gov*, or Eloise Gore, *Eloise.Gore@fcc.gov*, of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Further Notice of Proposed Rulemaking in CS Docket No. 00–96, FCC 08–86, adopted March 19, 2008, and released March 27, 2008. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Summary of the Notice of Proposed Rulemaking

I. Second Further Notice of Proposed Rulemaking

1. We seek comment on the scope of satellite carriers' carriage obligations under Section 338 of the Act as the HD carriage requirement becomes effective. In those markets, satellite carriers will be carrying the HD signals from all stations broadcasting in HD. But many subscribers in those markets may not have HD-capable set-top boxes on all sets connected to the DBS system. In such markets, carriage of only an HD signal would mean that those subscribers without HD-capable equipment would not be able to view the programming.

2. In such circumstances, satellite carriers may wish to provide separate SD broadcast feeds in addition to the mandated HD feeds. We seek comment on whether satellite carriers should be required to carry the signals of all local broadcast stations in HD and SD if they carry the signals of any local station in the same market in both HD and SD. That is, we seek comment on whether the Act would prohibit satellite carriers from carrying some broadcast stations in both HD and SD but not others—e.g., under the carry-one, carry-all provisions of section 338(a) of the Act or the nondiscrimination provisions of section 338(d) of the Act.

3. We also seek comment on the applicability of section 338(g)(2) of the Act, added in 2004, which provides that ''[i]f the carrier retransmits signals in the digital television service, the carrier shall retransmit such digital signals in such market by means of a single reception antenna and associated equipment.'' In local markets where a satellite carrier carries the signal of at least one local broadcaster in both HD and SD format, we seek comment on whether this provision requires that the operator do so for all broadcast stations in that market.

4. Finally, we seek comment on the petition for rulemaking filed by Rancho Palos Verdes (''RPV Petition''), which asks the Commission to adopt rules for satellite carriers that would be similar to the ''viewability'' provisions governing cable operators. The statutory bases for the cable viewability rules do not appear to have express DBS equivalents. We seek comment on whether satellite carriers nonetheless have an obligation, under sections 338(a), (d), (g), or any other provision, to provide all subscribers in a local-into-local market with the ability to view all stations carried pursuant to carry-one, carry-all requirements. As a policy matter, should the Commission impose such a requirement in the interests of regulatory parity and for the benefit of consumers?

5. Requiring similar treatment among broadcast stations could help ensure that consumers in local-into-local markets continue to receive all of their local broadcast signals, regardless of their subscription package. On the other hand, we seek comment on the impact of such a requirement on satellite carriers' ability to add local-into-local markets or to meet the HD implementation schedule set forth in the Order (Adopted: 3/19/08, Released: 3/27/08). We seek comment on these and any other legal, factual, or policy issues raised by the above discussion.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

6. As required by the Regulatory Flexibility Act of 1980 (''RFA''), the Commission has prepared an Initial Regulatory Flexibility Analysis (''IRFA'') relating to this *Second Further Notice of Proposed Rulemaking*. The IRFA is set forth in Appendix B.

7. As required by the Regulatory Flexibility Act of 1980, as amended (''RFA''), the Commission has prepared this Initial Regulatory Flexibility Analysis (''IRFA'') of the possible economic impact on a substantial number of small entities by the policies and rules proposed in this *Second Further Notice of Proposed Rulemaking* (''*Second Further NPRM*''). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Second Further NPRM* as indicated on the first page of the Order. The Commission will send a copy of the *Second Further NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (''SBA''). In addition, the *Second Further NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

1. Need for, and Objectives of, the Proposals

8. This *Second Further NPRM* seeks comment on the scope of satellite carriers' carriage obligations under

section 338 of the Act as the HD carriage requirement becomes effective. It asks whether satellite carriers should be required to carry the signals of all local broadcast stations in HD and SD if they carry the signals of any local station in the same market in both HD and SD. It also asks whether satellite carriers have an obligation, under sections 338(a), (d), (g), or any other provision, to provide all subscribers in a local-into-local market with the ability to view all stations carried pursuant to carry-one, carry all requirements. It seeks comment on whether, as a policy matter, the Commission should impose such a requirement, and on the impact of such a requirement on satellite carriers' ability to add local-into-local markets or to meet the HD implementation schedule set forth in the Order. Finally, it seeks comment on any other legal, factual or policy issues raised by the discussion in the *Further Notice* itself.

2. Legal Basis

9. The authority for the action proposed in this rulemaking is contained in sections 4(i), 4(j), 303(r), 325, 336, 338, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 154(j), 303(r), 325, 336, 338, 534, and 535.

3. Description and Estimate of the Number of Small Entities To Which the Proposals Will Apply

10. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein. The RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under Section 3 of the Small Business Act. Under the Small Business Act, a small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). The rules adopted herein will directly affect small television broadcast stations and small satellite carriers. A description of these small entities, as well as an estimate of the number of such small entities, is provided below.

11. *Television Broadcasting.* The SBA defines a television broadcasting station as a small business if such station has no more than $13.0 million in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' The Commission has estimated the number of licensed commercial television stations to be 1,376. According to Commission staff review of the BIA Publications, Inc. Master Access Television Analyzer Database (BIA) on March 30, 2007, about 986 of an estimated 1,374 commercial television stations (or approximately 72 percent) have revenues of $13.0 million or less and thus qualify as small entities under the SBA definition. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission has estimated the number of licensed noncommercial educational (NCE) television stations to be 380. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

12. In addition, an element of the definition of ''small business'' is that the entity not be dominant in its field of operation. We are unable at this time to define or quantify the criteria that would establish whether a specific television station is dominant in its field of operation. Accordingly, the estimate of small businesses to which rules may apply do not exclude any television station from the definition of a small business on this basis and are therefore over-inclusive to that extent. Also as noted, an additional element of the definition of ''small business'' is that the entity must be independently owned and operated. We note that it is difficult at times to assess these criteria in the context of media entities and our estimates of small businesses to which they apply may be over-inclusive to this extent.

13. *Satellite Carriers.* The term ''satellite carrier'' includes entities providing services as described in 17 U.S.C. 119(d)(6) using the facilities of a satellite or satellite service licensed under Part 25 of the Commission's rules to operate in Direct Broadcast Satellite (''DBS'') or Fixed-Satellite Service (''FSS'') frequencies. As a general practice, not mandated by any regulation, DBS licensees usually own and operate their own satellite facilities as well as package the programming they offer to their subscribers. In contrast, satellite carriers using FSS facilities often lease capacity from another entity that is licensed to operate the satellite used to provide service to subscribers. These entities package their own programming and may or may not be Commission licensees themselves. In addition, a third situation may include an entity using a non-U.S. licensed satellite to provide programming to subscribers in the United States pursuant to a blanket earth station license. Since 2007, the SBA has recognized satellite television distribution services within the broad economic census category of Wired Telecommunications Carriers. The SBA has developed a small business size standard for this category, which is: All such firms having 1,500 or fewer employees. The most current Census Bureau data, however, are from the last economic census of 2002, and we will use those figures to gauge the prevalence of small businesses in this category. Those size standards are for the two census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under both prior categories, such a business was considered small if it had $13.5 million or less in average annual receipts.

14. *Direct Broadcast Satellite (DBS) Service.* DBS service is a nationally distributed subscription service that delivers video and audio programming via satellite to a small parabolic ''dish'' antenna at the subscriber's location. Because DBS provides subscription services, DBS falls within the SBA-recognized definition of Wired Telecommunications Carriers. However, as discussed above, we rely on the previous size standard, Cable and Other Subscription Programming, which provides that a small entity is one with $13.5 million or less in annual receipts. Currently, only two operators—DirecTV and EchoStar Communications Corporation (''EchoStar'')—hold licenses to provide DBS service, which requires a great investment of capital for operation. Both currently offer subscription services and report annual revenues that are in excess of the threshold for a small business. Because DBS service requires significant capital, we believe it is unlikely that a small entity as defined by the SBA would have the financial wherewithal to become a DBS licensee. Nevertheless, given the absence of specific data on this point, we acknowledge the possibility that there are entrants in this field that may not yet have generated $13.5 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated.

15. *Fixed-Satellite Service (''FSS'').* The FSS is a radiocommunication service between earth stations at a

specified fixed point or between any fixed point within specified areas and one or more satellites. The FSS, which utilizes many earth stations that communicate with one or more space stations, may be used to provide subscription video service. Therefore, to the extent FSS frequencies are used to provide subscription services, FSS falls within the SBA-recognized definition of Wired Telecommunications Carriers. However, as discussed above, we rely on the previous size standard, Cable and Other Subscription Programming, which provides that a small entity is one with $13.5 million or less in annual receipts. Although a number of entities are licensed in the FSS, not all such licensees use FSS frequencies to provide subscription services. Both of the DBS licensees (EchoStar and DirecTV) have indicated interest in using FSS frequencies to broadcast signals to subscribers. It is possible that other entities could similarly use FSS frequencies, although we are not aware of any entities that might do so.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities

16. The *Second Further NPRM* seeks comment on rules that would primarily impose requirements on satellite carriers, and as discussed above few if any satellite carriers qualify as small entities. Small satellite carriers currently have obligations with respect to carriage of local commercial and non-commercial broadcast stations. The obligations would be increased by the rules contemplated in the Further Notice of Proposed Rulemaking (Further NPRM), but would not change in kind. As with existing statutory and regulatory requirements, small satellite carriers will need engineering and legal services to comply with the proposed rules, but if the proposed rules are implemented we do not anticipate that this need will be any different for small carriers than for large carriers. Small broadcast stations would be affected by the proposed rules, although likely in a positive way, and could be affected by other proposals raised in response to the *Further NPRM*. Also, initially, broadcasters may need additional legal services.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

17. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities. We seek comment on the applicability of any of these alternatives to affected small entities.

18. The requirements proposed in the *Second Further NPRM* would in most cases create minimal economic impact on small entities, and in some cases could provide positive economic impact. Station licensees and other parties are encouraged to submit comment on the proposals' impact on small television stations. Every effort will be made to minimize the impact of any adopted proposals on small satellite carriers. Finally, we are mindful of the potential concerns of small entities and will, therefore, continue to carefully scrutinize our policy determinations going forward. We invite small entities to submit comment on how the Commission could further minimize potential burdens on small entities if the proposals provided in the *Second Further NPRM,* or those submitted into the record, are ultimately adopted.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

19. None.

B. Initial Paperwork Reduction Act Analysis

20. This *Second Further Notice of Proposed Rulemaking* has been analyzed with respect to the PRA and does not contain proposed information collection requirements. In addition, therefore, it does not contain any new or modified ''information collection burden for small business concerns with fewer than 25 employees,'' pursuant to the Small Business Paperwork Relief Act of 2002.

C. Ex Parte Rules

21. *Permit-But-Disclose*. This proceeding will be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under section 1.1206(b) of the Commission's Rules. *Ex parte* presentations are permissible if disclosed in accordance with Commission Rules, except during the Sunshine Agenda period when presentations, *ex parte* or otherwise, are generally prohibited. Persons making oral *ex parte* presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one- or two-sentence description of the views and arguments presented is generally required. Additional rules pertaining to oral and written presentations are set forth in section 1.1206(b).

D. Filing Requirements

22. *Comments and Replies*. Pursuant to sections 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before June 4, 2008, and reply comments on or before June 19, 2008, using: (1) The Commission's Electronic Comment Filing System (''ECFS''), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov*. Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov,* and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- *Paper Filers:* Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although we continue to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the

Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

• Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

• U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

23. *Availability of Documents.* Comments, reply comments, and *ex parte* submissions will be available for public inspection during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY-A257, Washington, DC 20554. These documents will also be available via ECFS. Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.

24. *Accessibility Information.* To request information in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the FCC's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). This document can also be downloaded in Word and Portable Document Format (PDF) at: *http://www.fcc.gov.*

E. Additional Information

25. For more information on this *Second Further Notice of Proposed Rule Making,* please contact Lyle Elder, *Lyle.Elder@fcc.gov,* or Eloise Gore, *Eloise.Gore@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–2120.

26. *It is further ordered* that the Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Second Further Notice of Proposed Rule Making,* including the Final and Initial Regulatory Flexibility Analyses, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Cable television, Digital television, Multichannel video programming distributors, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–9747 Filed 5–2–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Part 107

[Docket No. PHMSA–2008–0010 (HM–208G)]

RIN 2137–AE35

Hazardous Materials Transportation; Registration and Fee Assessment Program

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This rule proposes to amend the statutorily-mandated registration and fee assessment program for persons who transport, or offer for transportation, certain categories and quantities of hazardous materials. For those registrants not qualifying as a small business or not-for-profit organization, we are proposing to increase the fee from $975 (plus a $25 administrative fee) to $2,475 (plus a $25 administrative fee) for registration year 2009–2010 and following years. The proposed fee increase is necessary to fund the national Hazardous Materials Emergency Preparedness (HMEP) grants program at approximately $28,000,000 in accordance with the Administration's Fiscal Year 2008 budget.

DATES: Submit comments by July 14, 2008.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number PHMSA–2008–0010 by any of the following methods:

• *Fax:* 202–493–2251.

• *Mail:* Dockets Management System; U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE.,Washington, DC 20590–0001.

• *Hand Delivery:* U.S. Department of Transportation, Dockets Operations, M–30, Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Instructions: Include the agency name and docket number PHMSA–2008–0010 (HM–208G) or Regulatory Identification Number (RIN) RIN 2137–AE35 for this rulemaking at the beginning of your comment. Note that all comments received will be posted, without change, to *http://www.regulations.gov* including any personal information provided. Persons wishing to receive confirmation of receipt of their comments must include a self-addressed stamped postcard.

Docket: You may review the public docket through the Internet at *http://www.regulations.gov* or in person at the Dockets Operations office at the above address (See **ADDRESSES**).

FOR FURTHER INFORMATION CONTACT: Mr. David Donaldson, Office of Hazardous Materials Planning and Analysis, PHMSA, (202) 366–4484, or Ms. Deborah Boothe, Office of Hazardous Materials Standards, PHMSA, (202) 366–8553.

SUPPLEMENTARY INFORMATION:

I. Background

Since 1992, the Pipeline and Hazardous Materials Safety Administration (PHMSA) has conducted a national registration program under the mandate in 49 U.S.C. 5108 for persons who offer for transportation or transport certain hazardous materials in intrastate, interstate, or foreign commerce. The purposes of the registration program are to gather information about the transportation of hazardous materials, and fund the Hazardous Materials and Emergency Preparedness (HMEP) grants program. The HMEP grants program supports hazardous materials emergency response planning and training activities by States, local governments, and Indian tribes. *See* 49 U.S.C. 5108(b), 5116. PHMSA has discretion to require additional persons to register, beyond those offerors and transporters of the categories and quantities of hazardous materials listed in 49 U.S.C. 5108(a)(1), and to set the annual registration fee between the statutorily-mandated minimum and maximum amounts. *See* 49 U.S.C. 5108(a)(2), 5108(g)(2)(A).

To meet Congressionally-authorized funding of $14.3 million for the HMEP grants program, in 2000, we expanded the base of registrants and adopted a two-tier fee schedule under which the registration fee was set at $275 for persons qualifying as small businesses under Small Business Administration (SBA) criteria, and $1,975 for other persons (plus a $25 processing fee in all cases). (69 FR 7297) Due to a surplus, in 2003, we temporarily adjusted the

registration fee to $125 (plus a $25 processing fee) for small businesses and not-for-profit organizations and $275 (plus a $25 processing fee) for all other registrants. (68 FR 1342) In 2006, the fees increased to $250 (plus a $25 processing fee) for small businesses and not-for-profit organizations and $975 (plus a $25 processing fee) for all other registrants.

Congress reauthorized the Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.*) in 2005 through the ''Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005'' (Title VII of the Safe, Accountable, Flexible, Efficient Transportation Equity Act—A Legacy for Users (SAFETEA–LU), Public Law 109–59, 119 Stat. 1144, August 10, 2005). The Act makes available approximately $28,000,000 for the HMEP grants program and lowers the maximum registration fee from $5,000 to $3,000. Consistent with SAFETEA–LU, and the Consolidated Appropriations Act of 2008 (Pub. L. 110–16) which sets an obligation limitation of $28,318,000 for expenses from the HMEP fund, the Administration's Fiscal Year 2008 budget requested and was granted $28,000,000 in support of HMEP activity.

To ensure full funding of the HMEP grants program, PHMSA is proposing an increase in registration fees to fund the program at the $28.3 million level. This proposed fee increase will be in effect for the 2009–2010 registration year. We are proposing to delay the proposed fee increase until the 2009–2010 registration year to avoid accumulating a large surplus in the HMEP grants program account. For those registrants not qualifying as a small business or not-for-profit organization, we propose to increase the registration fee from $975 (plus a $25 administrative fee) to $2,475 (plus a $25 administrative fee) for registration year 2009–2010 and following years.

II. HMEP Grants Program

A. Purpose and Achievements of the HMEP Grants Program

The HMEP grants program, as mandated by 49 U.S.C. 5116, provides Federal financial and technical assistance to States and Indian tribes to ''develop, improve, and carry out emergency plans'' within the National Response System and the Emergency Planning and Community Right-To-Know Act of 1986 (Title III), 42 U.S.C. 11001 et seq. The grants are used to develop, improve, and implement emergency plans; to train public sector hazardous materials emergency response employees to respond to accidents and incidents involving hazardous materials; to determine flow patterns of hazardous materials within a State and between States; and to determine the need within a State for regional hazardous materials emergency response teams.

The HMEP grants program encourages the growth of the hazardous materials planning and training programs of State, local, and tribal governments by limiting the Federal funding to 80 percent of the cost a State or Indian tribe incurs to carry out the activity for which the grant is made. *See* 49 U.S.C. 5116(e). HMEP grants supplement the amount already being provided by the State or Indian tribe. By accepting an HMEP grant, the State or tribe makes a commitment to maintain its previous level of support. *See* 49 U.S.C. 5116(a)(2)(A) and 5116(b)(2)(A).

Since 1993, PHMSA has awarded all States and territories and 45 Native American tribes planning and training grants totaling $125 million. These grants helped to:

- Train 2,103,000 hazardous materials responders;
- Conduct 8,617 commodity flow studies;
- Write or update more than 50,983 emergency plans;
- Conduct 11,773 emergency response exercises; and
- Assist 22,288 local emergency planning committees (LEPCs).

Since the beginning of the program, HMEP program funds have been used to support the following related activities in the total amounts indicated:

- $3.6 million for the development and periodic updating of a national curriculum used to train public sector emergency response and preparedness teams. The curriculum guidelines, developed by a committee of Federal, State, and local experts, include criteria for establishing training programs for emergency responders at five progressively more skilled levels: (1) First responder awareness, (2) first responder operations, (3) hazardous materials technician, (4) hazardous materials specialist, and (5) on-scene commander.
- $2.8 million to monitor public sector emergency response planning and training for hazardous materials incidents, and to provide technical assistance to State or Indian tribe emergency response training and planning for hazardous materials incidents.
- $6.5 million for periodic updating and distribution of the North American Emergency Response Guidebook. This guidebook provides immediate information on initial response to hazardous materials incidents, and is distributed free of charge to the response community.
- $2.8 million for the International Association of Fire Fighters (IAFF) to train instructors to conduct hazardous materials response training programs.

B. Increased Funding of the HMEP Grants Program

An estimated 800,000 shipments of hazardous materials make their way through the national transportation system each day. It is impossible to predict when and where a hazardous materials incident may occur or what the nature of the incident may be. This potential threat requires state and local agencies to develop emergency plans and train emergency responders on the broadest possible scale.

The HMEP training grants are essential for providing adequate training of persons throughout the nation who are responsible for responding to emergencies involving the release of hazardous materials. There are over 2 million emergency responders requiring initial training or periodic recertification training, including 250,000 paid firefighters, 850,000 volunteer firefighters, 725,000 law enforcement officers, and 500,000 emergency medical services (EMS) providers. Due to the high turnover rates of emergency response personnel, there is a continuing need to train a considerable number of recently recruited responders at the most basic level.

In addition, training at more advanced levels is essential to ensure emergency response personnel are capable of effectively and safely responding to serious releases of hazardous materials. The availability of increased funding for the HMEP grants program will encourage State, tribal, and local agencies to provide more advanced training.

The increased funding for HMEP grants will enable PHMSA to help meet previously unmet needs of State, local and tribal governments, and public and private trainers by providing for the following activities authorized by law:

- $21,800,000 for training and planning grants, an increase of $9 million;
- A new $4,000,000 grant program for non-profit hazmat employee organizations to train hazmat instructors who will train hazmat employees;
- $1,000,000 for grants to support certain national organizations to train instructors to conduct hazardous

materials response training programs, an increase of $750,000;

- $625,000 for revising, publishing, and distributing the North American Emergency Response Guidebook, an increase of $125,000;
- $200,000 for continuing development of a national training curriculum; and
- $150,000 for monitoring and technical assistance.

III. Summary of Proposal To Increase HMEP Funding

A registration fee system should: (1) Be simple, straightforward, and easily implemented and enforced; (2) employ an equity factor reflecting the differences in level of risk to the public and the financial impact associated with the business activities of large and small businesses; and (3) ensure adequate funding for the HMEP grants program. Under Federal hazmat law, we have the discretion to increase registration fees for both small and large businesses. We considered several alternatives for increasing the funds available for the HMEP grants program. One option was to increase the fee for all businesses offering for transportation or transporting the covered hazardous materials. Another option was to maintain the fee for small businesses and not-for-profit organizations while adjusting the fee for larger businesses.

Due to a surplus, in 2003, we temporarily adjusted the registration fee to $125 (plus a $25 processing fee) for small businesses and not-for-profit organizations and $275 (plus a $25 processing fee) for all other registrants. (68 FR 1342) This reduction has reduced the current surplus to approximately $14 million at the end of FY 2007.

To achieve the statutorily mandated goal of funding the HMEP grants program activities at approximately $28,000,000 and avoid a surplus in the HMEP grants account, we are proposing to delay increasing the registration fees by leaving registration fees for persons other than small businesses at the current level of $975 (plus $25 processing fee) for registration year 2008–2009 and raising the fees to $2,475 (plus $25 processing fee) for registration year 2009–2010 and following.

We believe adjusting the fee solely for larger, for-profit businesses is the best approach to meet the objectives listed above. Although there are exceptions, small businesses and not-for-profit organizations generally offer for transportation or transport fewer and smaller hazardous materials shipments as compared to larger companies. Raising the registration fee only for other-than-small businesses rather than for all businesses correlates the fee structure to the level of risk associated with shipments offered for transportation and transported by larger companies.

Moreover, increasing the registration fees only for other-than-small businesses will affect significantly fewer entities and will affect entities that can more easily absorb the increase. Since 2000, PHMSA has received approximately 42,000 registrations for each registration year. Small businesses or not-for-profit organizations make up 84%, or 35,275 of the registrants, while large businesses make up 16%, or 6,725, of the registrants.

IV. Multi-Year Registrations

We allow a person to register for up to three years in one registration statement (49 CFR 107.612(c)). We have received approximately 560 advance registrations for the 2009–2010 registration year from other-than-small businesses that have paid the fee previously established for that year. We apply fees according to the fee structure ultimately established by regulation for the registration year rather than according to the fee set at the time of payment. Thus, if we adopt the increase in registration fees proposed in this NPRM, additional fees would be required for registrations paid in advance at the lower levels in effect at the time of payment. When we lowered the fees for all registrants in 2003, we provided over 7,100 refunds amounting to over $2.3 million within the first year to registrants who had overpaid the newly established fees. If we adopt this proposal, we will notify each registrant who will be required to pay additional fees for the 2009–2010 and following registration years.

V. Rulemaking Analyses and Notices

A. Statutory/Legal Authority for This Rulemaking

This proposed rule is published under the authority of the Federal hazardous materials transportation law (Federal hazmat law; 49 U.S.C. 5101 *et seq.,* as amended by Pub. L. 109–59). Section 5108 of the Federal hazmat law authorizes the Secretary of Transportation to establish a registration program to collect fees to fund HMEP grants. The HMEP grants program, as mandated by 49 U.S.C. 5116, authorizes Federal financial and technical assistance to States and Indian tribes to ''develop, improve, and carry out emergency plans'' within the National Response System and the Emergency Planning and Community Right-To-Know Act of 1986 (Title III), 42 U.S.C. 11001 *et seq.*

Congress reauthorized the Federal hazmat law in 2005 through the Hazardous Materials Transportation Safety and Security Reauthorization Act of 2005. This Act makes available funding for the HMEP grants program at approximately $28,000,000, an increase of nearly $14 million. In addition, the Act lowers the maximum fee to $3,000.

B. Executive Order 12866 and DOT Regulatory Policies and Procedures

This proposed rule is not considered a significant regulatory action under section 3(f) of Executive Order 12866 and, therefore, was not subject to formal review by the Office of Management and Budget. This proposed rule is considered non-significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034).

The cost to industry of increasing registration fees will be $14 million per year. The increased funding for the HMEP grants program will provide essential training of persons throughout the nation who are responsible for responding to emergencies involving the release of hazardous materials. In addition, training at more advanced levels is essential to assure emergency response personnel are capable of effectively and safely responding to serious releases of hazardous materials. The increased funding for the HMEP grants will enable us to help meet previously unmet needs of State, local and tribal governments, and public and private trainers by providing funding for activities such as: (1) Planning and training grants for local emergency planning committees; (2) a new program for non profit hazmat employee organizations to train hazmat instructors that will train hazmat employees; (3) support to certain national organizations to train instructors to conduct hazardous materials response training programs; (4) revising, publishing, and distributing the North American Emergency Response Guidebook; (5) continuing development of a national training curriculum; and (6) monitoring and technical assistance.

While the safety benefits resulting from improved emergency response programs are difficult to quantify, we believe these benefits significantly outweigh the annual cost of funding the grants program. The importance of planning and training cannot be overemphasized. To a great extent, we are a nation of small towns and rural communities served by largely volunteer fire departments. In many instances, communities' response

resources already are overextended in their efforts to meet routine emergency response needs. The planning and training programs funded by the HMEP grants program enable state and local emergency responders to respond quickly and appropriately to hazardous materials transportation accidents, thereby mitigating potential loss of life and property and environmental damage. The regulatory evaluation to the final rule issued under Docket HM–208 (57 FR 30620) showed that the benefits to the public and to the industry from the emergency response grant program would at least equal, and likely exceed, the annual cost of funding the grant program. Based on estimates of annual damages and losses resulting from hazardous materials transportation accidents, the analysis concluded that the HMEP program would be cost-beneficial if it were only 3% effective in reducing either the frequency or severity of the consequences of hazardous materials transportation accidents. Achieving this level of effectiveness is well within the success rates of training and planning programs to reduce errors and increase the proficiency and productivity of response personnel. A regulatory evaluation for this proposed rule is available for review in the public docket.

C. Executive Order 13132

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13132 (''Federalism''). There is no preemption of State fees on transporting hazardous materials that meet the conditions of 49 U.S.C. 5125(f). This proposed rule does not propose any regulation having substantial direct effects on the States, the relationship between the national government and the States, or the distribution of power and responsibilities among the various levels of government. Therefore, the consultation and funding requirements of Executive Order 13132 do not apply.

D. Executive Order 13175

This proposed rule has been analyzed in accordance with the principles and criteria contained in Executive Order 13175 (''Consultation and Coordination with Indian Tribal Governments''). Because this proposed rule does not have adverse tribal implications and does not impose direct compliance costs, the funding and consultation requirements of Executive Order 13175 do not apply.

E. Regulatory Flexibility Act, Executive Order 13272, and DOT Procedures and Policies

The Regulatory Flexibility Act (5 U.S.C. 601–611) requires each agency to analyze regulations and assess their impact on small businesses and other small entities to determine whether the rule is expected to have a significant impact on a substantial number of small entities. The provisions of this rule apply specifically to businesses not falling within the small entities category. Therefore, PHMSA certifies this rule would not have a significant economic impact on a substantial number of small entities.

F. Unfunded Mandates Reform Act of 1995

This proposed rule does not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It does not result in costs of $120.7 million or more, in the aggregate, to any of the following: State, local, or Native American tribal governments, or the private sector.

G. Paperwork Reduction Act

Under 49 U.S.C. 5108(i), the information management requirements of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.) do not apply to this proposed rule.

H. Regulation Identifier Number (RIN)

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document may be used to cross-reference this action with the Unified Agenda.

I. Environmental Assessment

The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321–4347), requires Federal agencies to consider the consequences of major federal actions and prepare a detailed statement on actions significantly affecting the quality of the human environment. There are no significant environmental impacts associated with this proposed rule. PHMSA is proposing in this rule changes to the requirements in the Hazardous Materials Regulations on the registration and fee assessment program for persons who transport or offer for transportation certain categories and quantities of hazardous materials. The proposed increase in registration fees will provide additional funding for the HMEP program to help mitigate the safety and environmental consequences of hazardous materials transportation accidents.

J. 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 comments (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://www.regulations.gov.*

List of Subjects in 49 CFR Part 107

Administrative practice and procedure, Hazardous materials transportation, Penalties, Reporting and record keeping requirements.

In consideration of the foregoing, we propose to amend 49 CFR part 107 as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; Sec 212–213, Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.45, 1.53.

2. In § 107.612, revise paragraph (d)(3) to read as follows:

§ 107.612 Amount of fee.

* * * * *

(d) * * *

(3) *Other than a small business or not-for-profit organization.* Each person that does not meet the criteria specified in paragraph (d)(1) or (d)(2) of this section must pay an annual registration fee of:

(i) For registration year 2006–2007, 2007–2008, and 2008–2009, $975 and the processing fee required by paragraph (d)(4) of this section;

(ii) For registration year 2009–2010 and following, $2,475 and the processing fee required by paragraph (d)(4) of this section.

* * * * *

Issued in Washington, DC, on April 29, 2008, under authority delegated in 49 CFR part 106.

Theodore L. Willke,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. E8–9815 Filed 5–2–08; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 80

[FWS–R9–WSR–2008–0035; 91400–5110–0000–7B]

RIN 1018–AV99

Financial Assistance: Wildlife Restoration, Sport Fish Restoration, Hunter Education and Safety

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service, propose changes in the regulations governing the Wildlife Restoration, Sport Fish Restoration, and Hunter Education and Safety financial assistance programs. We propose to (a) address changes in law, and regulation; (b) clarify rules on license certification to address a greater number of licensing choices that States have offered hunters and anglers; (c) delete provisions on audits and records that are addressed in other regulations broadly applicable to financial assistance programs managed by the Department of the Interior; and (d) reword the regulations to make them easier to understand. The proposed changes would improve the regulations by making them more current and clear.

DATES: We will accept comments received or postmarked on or before June 4, 2008.

ADDRESSES: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, *Attn:* RIN 1018-AV99; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Joyce Johnson, Wildlife and Sport Fish Restoration Program, Division of Policy and Programs, U.S. Fish and Wildlife Service, 703–358–2156.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Department of the Interior's (DOI) Fish and Wildlife Service (Service) manages 38 financial assistance programs, 14 of which are managed, in whole or in part, by the Service's Wildlife and Sport Fish Restoration activity (WSFR). This proposed rule will revise title 50, part 80, of the Code of Federal Regulations (CFR), which contains the regulations that govern three WSFR programs: Wildlife Restoration, Sport Fish Restoration, and Hunter Education and Safety. The Sport Fish Restoration program includes freshwater and marine fisheries, aquatic resource education, and boat access programs. These programs provide financial assistance to the fish and wildlife agencies of States and other eligible jurisdictions to manage fish and wildlife and provide hunter education and safety programs. The Catalog of Federal Domestic Assistance at *http://www.cfda.gov* describes these programs under 15.611, 15.605, and 15.626.

The Federal Aid in Wildlife Restoration Act of September 2, 1937, and the Federal Aid in Sport Fish Restoration Act of August 9, 1950, as amended, established the programs affected by this proposed rule. These acts are more commonly known as the Pittman-Robertson Wildlife Restoration Act (50 Stat. 917; 16 U.S.C. 669–669k) and the Dingell-Johnson Sport Fish Restoration Act (64 Stat. 430; 16 U.S.C. 777–777n). They established a user-pay and user-benefit system in which the fish and wildlife agencies of the States, Commonwealths, and territories receive formula-based funding from a continuing appropriation. The District of Columbia also receives such funding, but only for managing fish resources. Industry partners pay taxes on equipment and gear manufactured for purchase by hunters, anglers, boaters, archers, and recreational shooters. The Service then distributes those funds to the fish and wildlife agencies of States and other eligible jurisdictions. States must match these Federal funds by providing a 25-percent cost share. In fiscal year 2008, the States and other eligible jurisdictions received $310 million through the Wildlife Restoration and Hunter Education and Safety programs and $398 million through the Sport Fish Restoration program.

The Service revised two sections of 50 CFR 80 in 2001, but we have not systematically reviewed other sections for revision since the 1980's. Consequently, some provisions do not reflect:

(a) The promulgation in 1988 of 43 CFR part 12, subpart C ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments'';

(b) The Transportation Equity Act for the 21st Century in 1998, which raised the minimum level of spending for boating access in the Sport Fish Restoration program from 10 to 15 percent; and

(c) The Presidential memorandum of June 1, 1998, that required the use of plain language in Government writing.

In addition, we must clarify 50 CFR 80.10 on certification of hunting and fishing licenses to address the greater number of licensing choices that some States and other jurisdictions have offered hunters and anglers in recent years.

Updates to the Regulations

We propose to update and revise the regulations at 50 CFR part 80 to reflect a 2000 amendment of the legal authority that established the affected program. More specifically, we propose to change the names of the Federal Aid in Wildlife Restoration Act of September 2, 1937, and the Federal Aid in Sport Fish Restoration Act of August 9, 1950, to the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act. We propose to change the name of the activities associated with the management of the affected financial assistance programs from ''Federal Aid'' to ''Wildlife and Sport Fish Restoration Program.'' We also propose to update the U.S. Code citations in 50 CFR 80.1 for the Pittman-Robertson Wildlife Restoration Act and Dingell-Johnson Sport Fish Restoration Act. The proposed changes above will make 50 CFR part 80 consistent with the Wildlife and Sport Fish Restoration Improvement Act of 2000.

We propose to make nonsubstantive administrative changes in 50 CFR part 80 to ensure that its provisions accurately reflect law and regulation to implement changes that have occurred in these areas over the past 20 years. We would replace the reference in § 80.14 to Office of Management and Budget (OMB) Circular A–102's Attachment N with 43 CFR 12.71 and 12.932 as a source of guidance on the use and disposition of unneeded real property.

The provisions of § 80.19 on records and § 80.22 on audits also refer to subject matter that was in the 1971 version of A–102. We would delete all the contents of these sections because 43 CFR 12.82 and 12.66 are applicable to the affected programs, and they address these subjects adequately.

We propose to delete the definition and references to the ''Federal Aid Manual'' in § 80.1 and § 80.11 because the ''Federal Aid Manual'' is a compendium of the Director's instructions to his or her employees and

not appropriate for regulations, which are directed toward and have impacts on the public. We propose to delete references to the Standard Forms (SF) 271 and 269B and add SF 269 in § 80.27 to reflect the forms approved by OMB. We propose to delete § 80.27(d) because the form required by that paragraph, a grant agreement, is no longer valid. We also deleted the estimates of the time required to fill out the forms because such specific information that will change over time is not appropriate for regulations.

We propose to change ''aquatic education'' to ''aquatic resource education'' in § 80.15 to reflect more accurately the language of the Dingell-Johnson Sport Fish Restoration Act. We will apply plain language principles to those provisions where we have to change or clarify the content of the regulations. This conversion to plain language will make the affected provisions clearer as well as comply with the Service's plain language policy. More specifically, we will replace words that are susceptible to different meanings with words that are more precise, *e.g.*, we propose to change ''shall'' to ''must.'' We will refer to the territories, Commonwealths, and the District of Columbia in a consistent way throughout 50 CFR 80. Finally, we will alphabetize definitions in § 80.1 for ease of reference and to conform to policy of the Office of the **Federal Register**.

Clarifying the Requirements

We propose to make administrative changes in 50 CFR part 80 to ensure that the process for certifying the number of hunter and angler licenses provides accurate data that are comparable among the States (''States'' include Commonwealths, territories, and the District of Columbia in the context of license certification.). This proposed change is important because we apportion funds to the States based in part on the numbers of these licenses. We need to clarify this process because, as States offered more licensing options, they began to use different approaches in counting the individuals who purchased licenses. We propose several changes to resolve this problem. We would clarify the 12-month period during which a State-identified license year must end. We would also establish a common approach for States to assign single-year license holders to a license year. Under this approach, States would assign single-year license holders only to the period in which they purchased the license instead of having the option of assigning them to the period in which their licenses are valid. Finally, we would clarify that, under certain conditions, States may assign a person who purchases a multiyear license to each license period in which the license is valid.

We propose to add the territory of American Samoa to the jurisdictions in § 80.2(b) that are eligible to participate in the benefits of the Pittman-Robertson Wildlife Restoration Act. This is consistent with sections 4(c) and 8(a) of the Pittman-Robertson Wildlife Restoration Act.

We propose to add the District of Columbia to the list of jurisdictions in § 80.12 for which the non-Federal cost sharing must not exceed 25 percent. This change is consistent with section 12 of the Dingell-Johnson Sport Fish Restoration Act.

We propose to increase the minimum expenditure of Sport Fish Restoration apportioned dollars for recreational boating access facilities in § 80.24 from ''10 per centum'' to ''15 percent.'' This change would reflect an amendment of the Dingell-Johnson Sport Fish Restoration Act that was in the 1998 Transportation Equity Act for the 21st Century. By increasing the percentage consistent with the 1998 act, we would also change ''per centum'' to its modern counterpart ''percent.''

Finally, we propose to add a provision at § 80.28 that allows the Director to authorize exceptions to any provisions of 50 CFR part 80 that are not explicitly required by law. This proposal recognizes that at some point in the future, natural catastrophes or other extreme situations may justify exceptions to some provisions of 50 CFR part 80.

Public Comments

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments sent by e-mail or fax or to an address not listed in the **ADDRESSES** section. We will not accept anonymous comments; your comment must include your first and last name, city, State, country, and postal (zip) code. Finally, we will not consider hand-delivered comments that we do not receive, or mailed comments that are not postmarked, by the date specified in the **DATES** section.

If you submit a comment via *http://www.regulations.gov,* your entire comment—including any personal identifying information—will be posted on the Web site. If you submit a hardcopy comment that includes personal information in addition to the required items specified above, such as your street address, phone number, or e-mail address, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy comments on *http://www.regulations.gov.*

We are opening a comment period of only 30 days because we believe that this amount of time will be sufficient for several reasons: (a) The proposed changes are primarily administrative and nonsubstantive, (b) the affected entities are aware of our intention to propose these changes to improve the regulations, (c) the general public is basically unaffected by these regulations, and (d) no benefit to the public would result from offering a longer comment period and extending the overall timeframe for this rulemaking.

Required Determinations

Clarity of This Regulation

Executive Order (E.O.) 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following:

(1) Are the requirements in the rule clearly stated?

(2) Does the rule contain technical language or jargon that interferes with its clarity?

(3) Does the format of the rule (e.g., grouping, order of sections, use of headings, and paragraphing) aid or reduce its clarity?

(4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol § and a numbered heading; for example: ''§ 80.15 Allowable costs.'')

(5) Does the description of the rule in the ''Supplementary Information'' section of the preamble help you to understand the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You also may e-mail comments to *Exsec@ios.doi.gov.*

Regulatory Planning and Review (Executive Order 12866)

OMB has determined that this rule is not significant and has not reviewed this rule under Executive Order 12866 (E.O. 12866). OMB bases its determination upon the following four criteria:

(a) Whether the rule will have an annual effect of $100 million or more on the economy or adversely affect an economic sector, productivity, jobs, the environment, or other units of the government.

(b) Whether the rule will create inconsistencies with other Federal agencies' actions.

(c) Whether the rule will materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients.

(d) Whether the rule raises novel legal or policy issues.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (Pub. L. 104–121)), 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 would not have a significant economic impact on a substantial number of small entities.

SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide the statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities. We have examined this proposed rule's potential effects on small entities as required by the Regulatory Flexibility Act and have determined that this action would not have a significant economic impact on small entities because the changes we are proposing are intended to: (a) Address changes in law and regulation; (b) clarify rules on license certification to address a greater number of licensing choices that States and other jurisdictions have offered hunters and anglers; (c) delete provisions on audits and records that are addressed in other regulations; and (d) reword the regulations to make them easier to understand. No costs are associated with this regulatory change. Consequently, we certify that because this proposed rule would not have a significant economic effect on a substantial number of small entities, a regulatory flexibility analysis is not required.

This proposed rule is not a major rule under SBREFA (5 U.S.C. 804(2)). It would not have a significant impact on a substantial number of small entities.

a. This proposed rule would not have an annual effect on the economy of $100 million or more.

b. This proposed rule would not cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions.

c. This proposed rule would not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*), we have determined the following:

a. This proposed rule would not ''significantly or uniquely'' affect small governments. A small government agency plan is not required. The programs governed by the current regulations assist small governments financially, and the proposed rule would simply improve these regulations.

b. This proposed rule would not produce a Federal mandate of $100 million or greater in any year, i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings

In accordance with E.O. 12630, this proposed rule would not have significant takings implications because it would not contain a provision for taking of private property. Therefore, a takings implication assessment is not required.

Federalism

This proposed rule would not have sufficient Federalism effects to warrant preparation of a Federalism assessment under E.O. 13132. It would not interfere with the States' ability to manage themselves or their funds. We work closely with the States in administration of these programs. The proposed rule will benefit recipients in three grant programs by establishing a common approach and clarifying the rules applicable to grant recipients' legally required annual certification of the number of hunters and anglers who purchased licenses.

Civil Justice Reform

In accordance with E.O. 12988, the Office of the Solicitor has determined that the rule would not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The proposed rule will also benefit grantees by eliminating unnecessary or outdated elements of the regulations governing the affected programs and by making the regulations easier to understand.

Paperwork Reduction Act

We examined the proposed rule under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). We may not collect or sponsor, nor is a person required to respond to, a collection of information unless it displays a currently valid OMB control number. The proposed rule will clarify 50 CFR 80.10, which requires States to submit information on the number of persons holding hunting and fishing licenses. On January 25, 2007, OMB approved our collection of information from States based on the requirements of 50 CFR 80.10. OMB approved this information collection on forms FWS 3–154a and 3–154b under control number 1018–0007. The proposed rule does not change the information items required on forms FWS 3–154a and 3–154b. It merely establishes a common approach for States to assign license holders to a license year for purposes of the information collection. The proposed rule will also remove outdated information in 50 CFR 80.27.

National Environmental Policy Act

We have analyzed this rule in accordance with the National Environmental Policy Act, 42 U.S.C. 432–437(f) and part 516 of the Departmental Manual. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. An environmental impact statement/assessment is not required due to the categorical exclusion for administrative changes provided at 516 DM 2, Appendix 1, section 1.10.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), E.O. 13175, and 512 DM 2, we have evaluated potential effects on federally recognized Indian Tribes and have determined that there are no potential effects. This proposed rule would not interfere with the Tribes' ability to manage themselves or their funds.

Energy Supply, Distribution, or Use (E.O. 13211)

On May 18, 2001, the President issued E.O. 13211 addressing regulations that

significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. This rule is not a significant regulatory action under E.O. 12866, and would not significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Author

The author of this rulemaking is Tom McCoy, U.S. Fish and Wildlife Service, Wildlife and Sport Fish Restoration Program, 4401 North Fairfax Drive, WSFR–4020, Arlington, VA 22203–1610.

List of Subjects in 50 CFR Part 80

Fish, Grant programs—natural resources, Reporting and recordkeeping requirements, Signs and symbols, Wildlife.

Proposed Regulation Promulgation

For the reasons stated in the preamble, we propose to amend part 80 of subchapter F, chapter I, title 50 of the Code of Federal Regulations, as follows:

SUBCHAPTER F—FINANCIAL ASSISTANCE—WILDLIFE AND SPORT FISH RESTORATION PROGRAM

1. Revise the heading of subchapter F to read as set forth above.

PART 80—ADMINISTRATIVE REQUIREMENTS, PITTMAN-ROBERTSON WILDLIFE RESTORATION AND DINGELL-JOHNSON SPORT FISH RESTORATION ACTS

2. The authority citation for part 80 is revised to read as follows:

Authority: 16 U.S.C. 777–777n; 16 U.S.C. 669–669k; 18 U.S.C. 701.

3. Revise the heading of part 80 to read as set forth above.

4. Revise § 80.1 to read as follows:

§ 80.1 Definitions.

As used in this part, the following terms have these meanings:

Common horsepower. Any size motor that can be reasonably accommodated on the body of water slated for development.

Comprehensive fish and wildlife management plan. A document describing the State's plan for meeting the long-range needs of the public for fish and wildlife resources, and the system for managing the plan.

Director. The Director of the U.S. Fish and Wildlife Service (Service), or his or her designated representative. The Director serves as the Secretary's representative in matters relating to the administration and execution of the Wildlife and Sport Fish Restoration Acts.

Project. One or more related undertakings necessary to fulfill a need or needs, as defined by the State, and consistent with the purposes of the appropriate Act.

Regional Director. The regional director of any region of the Service, or his or her designated representative.

Resident angler. One who fishes within the same State where legal residence is maintained.

Resident hunter. One who hunts within the same State where legal residence is maintained.

Secretary. The Secretary of the Interior or his or her designated representative.

State. Any State of the United States and the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa. References to ''the 50 States'' pertain only to the 50 States of the United States and do not include these other six areas.

State fish and wildlife agency. The agency or official of a State designated under State law or regulation to carry out the laws of the State in relation to the management of fish and wildlife resources of the State. Such an agency or official also designated to exercise collateral responsibilities, e.g., a State Department of Natural Resources, will be considered the State fish and wildlife agency only when exercising the responsibilities specific to the management of the fish and wildlife resources of the State.

Wildlife and Sport Fish Restoration Acts or *the Acts.* Pittman-Robertson Wildlife Restoration Act of September 2, 1937, as amended (50 Stat. 917; 16 U.S.C. 669–669k), and the Dingell-Johnson Sport Fish Restoration Act of August 9, 1950, as amended (64 Stat. 430; 16 U.S.C. 777–777n).

Wildlife and Sport Fish Restoration Program Funds. Funds provided under the Acts.

5. Amend § 80.2 by revising paragraphs (a) and (b) to read as follows:

§ 80.2 Eligibility.

* * * * *

(a) Dingell-Johnson Sport Fish Restoration—Any of the States as defined in § 80.1.

(b) Pittman-Robertson Wildlife Restoration—Any of the States as defined in § 80.1, except the District of Columbia.

§ 80.4 [Amended]

6. Amend paragraph (a)(4) of § 80.4 by removing the words ''Federal Aid project'' and adding in their place the word ''Project''.

§ 80.5 [Amended]

7. Amend § 80.5 by:

a. In paragraph (a), removing the words ''Federal Aid in'' and adding in their place the words ''Pittman-Robertson''; and

b. In paragraph (b), removing the words ''Federal Aid in'' and adding in their place the words ''Dingell-Johnson''.

§ 80.9 [Amended]

8. Amend paragraph (b) of § 80.9 by removing the words ''Federal Aid'' and adding in their place the words ''Wildlife and Sport Fish Restoration Program''.

9. Revise § 80.10 to read as follows:

§ 80.10 State Certification of Licenses.

(a) To ensure proper apportionment of Federal funds, the Service requires that each director of a State fish and wildlife agency:

(1) Specify an accounting period that

(i) Is 12 consecutive months in length;

(ii) Corresponds with or includes the State's fiscal year or license year; and

(iii) Ends no less than 1 year and no more than 2 years before the beginning of the Federal fiscal year that the apportioned funds first become available for expenditure; and

(2) Annually provide to the Service the following data:

(i) The number of people in that State who, during the State-specified period established in paragraph (a)(1) of this section, hold purchased licenses that authorize an individual to hunt in the State; and

(ii) The number of people in that State who, during the State-specified period established in paragraph (a)(1) of this section, hold purchased licenses that authorize an individual to fish in the State.

(b) When counting people holding purchased hunting or fishing licenses in a State-specified 12-month period, a State fish and wildlife agency must abide by the following requirements:

(1) The State may count all persons who possess a purchased license that allows the licensee to hunt or fish for sport or recreation. The State may not count persons holding a license that allows the licensee to trap animals or engage in commercial activities.

(2) The State may count only those persons who possess a license that produced net revenue, which is an amount of at least $1.00 per year

returned to the State fish and wildlife agency after deducting agents' or sellers' fees and the cost of printing, distribution, control, or other costs directly associated with issuance of the license.

(3) The State may count persons possessing a single-year license (one that is valid for less than 2 years) only in the State-specified 12-month period in which the license was purchased.

(4) The State may count persons possessing a multiyear license (one that is valid for 2 years or more) in each State-specified 12-month period in which the license is valid, whether the period of validity is a specific or indeterminate number of years, only if:

(i) The licensee is required to have a purchased license to fish or hunt anywhere in the State during the State-specified 12-month period;

(ii) The net revenue from the license is commensurate with the number of years in which both the license is valid and the licensee is required to have a purchased license to fish or hunt anywhere in the State; and

(iii) The State fish and wildlife agency uses statistical sampling or other appropriate techniques to determine whether the licensee remains a license holder and is required to have a purchased license to fish or hunt anywhere in the State in the State-specified 12-month period.

(5) The State may count persons possessing a combination license (one that permits the licensee to both hunt and fish) with both

(i) The number of people who hold purchased hunting licenses in the State-specified 12-month period and

(ii) The number of people who hold purchased fishing licenses during the same State-specified 12-month period.

(6) The State may count persons possessing multiple hunting or fishing licenses (in States that require or permit more than one license to hunt or more than one license to fish) only once with

(i) The number of people who hold purchased hunting licenses in the State-specified 12-month period and

(ii) The number of people who hold purchased fishing licenses during the same State-specified 12-month period.

(c) The director of the State fish and wildlife agency must certify the information required in paragraphs (a) and (b) of this section, and, if the Director requests it, provide documentation to support the accuracy of this information. The director of the State fish and wildlife agency is responsible for eliminating multiple counting of single individuals in the information that he or she certifies and may use statistical sampling or other appropriate techniques for this purpose.

(d) The director of the State fish and wildlife agency must provide the certified information required in paragraphs (a) and (b) of this section to the Service by the date and in the format that the Director specifies.

(e) Once the Director approves the certified information required in paragraphs (a) and (b) of this section, the Service must not adjust the numbers if such adjustment would adversely impact any apportionment of funds to a State fish and wildlife agency other than the State fish and wildlife agency whose certified numbers are being adjusted.

10. Revise § 80.11 to read as follows:

§ 80.11 Submission of proposals.

A State may apply to use funds apportioned under the Acts by submitting to the Regional Director either a comprehensive fish and wildlife management plan or grant proposal.

(a) Each application must contain such information as the Regional Director may require to determine if the proposed activities are in accordance with the Acts and the provisions of this part.

(b) The State must submit each application and amendments of scope to the State Clearinghouse as required by Office of Management and Budget (OMB) Circular A–95 and by State Clearinghouse requirements.

(c) Applications must be signed by the director of the State fish and wildlife agency or an official delegated to exercise the authority and responsibilities of the State director in committing the State to participate under the Acts. The director of each State fish and wildlife agency must notify the Regional Director, in writing, of the official(s) authorized to sign the Wildlife and Sport Fish Restoration Program documents, and any changes in such authorizations.

11. Amend § 80.12 by revising the introductory text and paragraph (b) to read as follows:

§ 80.12 Cost sharing.

Federal participation is limited to 75 percent of eligible costs incurred in the completion of approved work or the Federal share specified in the grant, whichever is less, except that the non-Federal cost sharing for the Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa must not exceed 25 percent and may be waived at the discretion of the Regional Director.

* * * * *

(b) The non-Federal share of project costs may be in the form of cash or in-kind contributions.

* * * * *

12. Revise § 80.14 to read as follows:

§ 80.14 Application of Wildlife and Sport Fish Restoration Program funds.

(a) States must apply Wildlife and Sport Fish Restoration Program funds only to activities or purposes approved by the Regional Director. If otherwise applied, such funds must be replaced or the State becomes ineligible to participate.

(b) Real property acquired or constructed with Wildlife and Sport Fish Restoration Program funds must continue to serve the purpose for which acquired or constructed.

(1) When such property passes from management control of the State fish and wildlife agency, the control must be fully restored to the State fish and wildlife agency or the real property must be replaced using non-Federal funds. Replacement property must be of equal value at current market prices and with equal benefits as the original property. The State may have up to 3 years from the date of notification by the Regional Director to acquire replacement property before becoming ineligible.

(2) When such property is used for purposes that interfere with the accomplishment of approved purposes, the violating activities must cease and any adverse effects resulting must be remedied.

(3) When such property is no longer needed or useful for its original purpose, and with prior approval of the Regional Director, the property must be used or disposed of as provided by 43 CFR 12.71 or 43 CFR 12.932.

(c) Wildlife and Sport Fish Restoration Program funds cannot be used for the purpose of producing income. However, income-producing activities incidental to accomplishment of approved purposes are allowable. Income derived from such activities must be accounted for in the project records and disposed of as directed by the Director.

13. Amend § 80.15 by revising paragraphs (c), (d), and (f) to read as follows:

§ 80.15 Allowable costs.

* * * * *

(c) *Are costs allowable if they are incurred prior to the date of the grant?* Costs incurred prior to the effective date of the grant are allowable only when specifically provided for in the grant.

(d) *How are costs allocated in multipurpose projects or facilities?*

Projects or facilities designed to include purposes other than those eligible under either the Dingell-Johnson Sport Fish Restoration or Pittman-Robertson Wildlife Restoration Acts must provide for the allocation of costs among the various purposes. The method used to allocate costs must produce an equitable distribution of costs based on the relative uses or benefits provided.

* * * * *

(f) *How much money may be obligated for aquatic resource education and outreach and communications?* (1) Each of the 50 States may spend no more than 15 percent of the annual amount apportioned to it under the provisions of the Dingell-Johnson Sport Fish Restoration Act for an aquatic resource education and outreach and communications program for the purpose of increasing public understanding of the Nation's water resources and associated aquatic life forms.

(2) The Commonwealths of Puerto Rico and the Northern Mariana Islands, the District of Columbia, and the territories of Guam, the U.S. Virgin Islands, and American Samoa are not limited to the 15-percent cap imposed on the 50 States. Each of these entities may spend more for these purposes with the approval of the appropriate Regional Director.

§ 80.16 Payments.

14. Amend § 80.16 by:

a. Revising the section heading as set forth above;

b. Removing the word ''shall'' wherever it appears and adding in its place the word ''must''; and

c. Removing the words ''regional director'' and ''region director'' wherever they appear and adding in their place the words ''Regional Director''.

15. Revise § 80.17 to read as follows:

§ 80.17 Maintenance.

The State is responsible for maintenance of all capital improvements acquired or constructed with Wildlife and Sport Fish Restoration Program funds throughout the useful life of each improvement. Costs for such maintenance are allowable when provided for in approved projects. The maintenance of improvements acquired or constructed with funds other than funds from the Wildlife and Sport Fish Restoration Program are allowable costs when such improvements are necessary for accomplishment of project purposes as approved by the Regional Director, and when such costs are otherwise allowable by law.

§ 80.19 [Removed]

16. Remove and reserve § 80.19.

§ 80.20 [Amended]

17. Amend § 80.20 by removing the words ''Federal Aid'' and adding in their place the words ''Wildlife and Sport Fish Restoration Program''.

§ 80.22 [Removed]

18. Remove and reserve § 80.22.

19. Amend § 80.23 by revising paragraphs (a) introductory text and (a)(1) to read as follows:

§ 80.23 Allocation of funds between marine and freshwater fishery projects.

(a) Each coastal State, to the extent practicable, must equitably allocate those funds specified by the Secretary, in the apportionment of the Dingell-Johnson Sport Fish Restoration funds, between projects having recreational benefits for marine fisheries and projects having recreational benefits for freshwater fisheries.

(1) *Coastal States are:* Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington; the territories of Guam, the U.S. Virgin Islands, and American Samoa; and the Commonwealths of Puerto Rico and the Northern Mariana Islands.

* * * * *

20. Revise § 80.24 to read as follows:

§ 80.24 Recreational boating access facilities.

The State must allocate at least 15 percent of each annual apportionment under the Dingell-Johnson Sport Fish Restoration Act for recreational boating access facilities. All facilities constructed, acquired, developed, renovated, or maintained (including existing structures for which maintenance is provided) must be for providing additional, improved, or safer access of public waters for boating recreation as part of the State's effort for the restoration, management, and public use of sport fish. Although a broad range of access facilities and associated amenities can qualify for funding under the 15 percent provision, the State must accommodate power boats with common horsepower ratings, and must make reasonable efforts to accommodate boats with larger horsepower ratings if they would not conflict with aquatic resources management. Any portion of the 15 percent set aside for the above purposes that remain unexpended or unobligated after 2 years must revert to the Service.

§ 80.25 [Amended]

21. Amend § 80.25 by:

a. In the section heading and paragraph (a), removing the words ''Federal Aid in'' and adding in their place the words ''Dingell-Johnson''; and

b. In paragraphs (a)(1) and (a)(2), removing the word ''Aid''.

22. Amend § 80.26 by revising the introductory text and paragraphs (b), (f) introductory text, (g) introductory text, and (h) introductory text to read as set forth below:

§ 80.26 Symbols.

We have prescribed distinctive symbols to identify projects funded by the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act and items on which taxes and duties have been collected to support the respective Acts.

* * * * *

(b) Other persons or organizations may use the symbol(s) for purposes related to the Wildlife and Sport Fish Restoration Program as authorized by the Director. Authorization for the use of the symbol(s) will be by written agreement executed by the Service and the user. To obtain authorization, submit a written request stating the specific use and items to which the symbol(s) will be applied to Director, U.S. Fish and Wildlife Service, Washington, DC 20240.

* * * * *

(f) The symbol pertaining to the Pittman-Robertson Wildlife Restoration Act is below. * * *

(g) The symbol pertaining to the Dingell-Johnson Sport Fish Restoration Act is below. * * *

(h) The symbol pertaining to the Pittman-Robertson Wildlife Restoration Act and the Dingell-Johnson Sport Fish Restoration Act when used in combination is below.

* * *

23. Revise § 80.27 to read as follows:

§ 80.27 Information collection requirements.

(a) Information gathering requirements include filling out forms to apply for certain benefits offered by the Federal Government. Information gathered under this part is authorized under the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777–777n) and the Pittman-Robertson Wildlife Restoration Act (16 U.S.C. 669–669k). The Service may not conduct or sponsor, and applicants or grantees are not required to respond to, a collection of information unless the request

displays a currently valid OMB control number. OMB has approved our collection of information under OMB control number 1018–0007. Our requests for information will be used to apportion funds and to review and make decisions on grant applications and reimbursement payment requests submitted to the Wildlife and Sport Fish Restoration Program.

(b) Submit comments on the accuracy of the information collection requirements to: U.S. Fish and Wildlife Service, Information Collection Clearance Officer, 4401 North Fairfax Drive, Suite 222, Arlington, VA 22203.

24. Add new § 80.28 to read as follows:

§ 80.28 Exceptions.

The Director may authorize exceptions to any provisions of this part that are not explicitly required by law.

Dated: April 16, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E8–9785 Filed 5–2–08; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 73, No. 87

Monday, May 5, 2008

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

Submission for OMB Review; Comment Request, Correction

April 29, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding: (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (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 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

The following notice published in the **Federal Register** on April 29, 2008 (Volume 73, Number 83) pg. 23178 contained an error in the number of respondents. The number of respondents should be 556,053 not 53.

Food and Nutrition Service

Title: Food Stamp Program Repayment Demand and Program Disqualification.

OMB Control Number: 0584–0492.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–9767 Filed 5–2–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Advisory Committee on Biotechnology and 21st Century Agriculture Meeting

AGENCY: Office of the Under Secretary, Research, Education, and Economics, Agricultural Research Service.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, the United States Department of Agriculture announces a meeting of the Advisory Committee on Biotechnology and 21st Century Agriculture (AC21).

DATES: The meeting dates are May 28, 2008, 8 a.m. to 5 p.m., and May 29, 2008, 8 a.m. to 4 p.m.

ADDRESSES: Waugh Auditorium, USDA Economic Research Service, Third Floor, South Tower, 1800 M Street, NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Michael Schechtman, Telephone (202) 720–3817.

SUPPLEMENTARY INFORMATION: The nineteenth meeting of the AC21 has been scheduled for May 28–29, 2008. The AC21 consists of members representing the biotechnology industry, farmers, commodity processors and shippers, livestock handlers, environmental and consumer groups, and academic researchers. In addition, representatives from the Departments of Commerce, Health and Human Services, and State, and the Environmental Protection Agency, the Office of the United States Trade Representative, and the National Association of State Departments of Agriculture serve as ''ex officio'' members. At this meeting, the committee will continue its consideration of potential USDA regulatory and marketing roles in the oversight of transgenic food animals intended for food or non-food uses. Background information regarding the work of the AC21 will be available on the USDA Web site at *http://www.usda.gov/wps/portal/!ut/p/_s.7_0_A/7_0_1OB?navid=BIOTECH&parentnav=AGRICULTURE&navtype=RT*.

Requests to make oral presentations at the meeting may be sent to Michael Schechtman, Designated Federal Official, Office of the Deputy Secretary, USDA, 202 B Jamie L. Whitten Federal Building, 12th Street and Jefferson Drive, SW., Washington, DC 20250, Telephone (202) 720–3817; Fax (202) 690–4265; E-mail *Michael.schechtman@ars.usda.gov*. On May 28, 2008, if time permits, reasonable provision will be made for oral presentations of no more than five minutes each in duration. Written requests to make oral presentations at the meeting must be received by the contact person identified herein at least three business days before the meeting. The meeting will be open to the public, but space is limited. If you would like to attend the meetings, you must register by contacting Ms. Dianne Harmon at (202) 720–4074, by fax at (202) 720–3191 or by e-mail at *Dianne.harmon@ars.usda.gov* at least five business days prior to the meeting. Please provide your name, title, business affiliation, address, and telephone and fax numbers when you register. If you require a sign language interpreter or other special accommodation due to disability, please indicate those needs at the time of registration.

Dated: April 24, 2008.

Jeremy Stump,

Senior Advisor for International and Homeland Security Affairs and Biotechnology.

[FR Doc. E8–9768 Filed 5–2–08; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request; Food Stamp Program Food Coupon Deposit Document, Form FNS–521

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on proposed information collections. The proposed collection is a revision of a currently approved collection.

DATES: Written comments must be received on or before July 7, 2008 to be assured of consideration.

ADDRESSES: 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 the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to Ronald Ward, Chief, Retailer Operations Branch, Benefit Redemption Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 403, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Ronald Ward at (703) 305–2523 or via email to: *brdhq-web@fns.usda.gov*.

All written comments will be open for public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5 p.m., Monday through Friday) at 3101 Park Center Drive, Alexandria, Virginia 22302, Room 403.

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Ronald Ward, (703) 305–2523.

SUPPLEMENTARY INFORMATION:

Title: Food Coupon Deposit Document.

OMB Number: 0584–0314.

Form Number: FNS–521.

Expiration Date: May 31, 2008.

Type of Request: Revision of a currently approved collection of information.

Abstract: The Food Stamp Act of 1977, as amended, Section 10, (7 U.S.C. 2019) requires that the Food and Nutrition Service (FNS) provide for the redemption, through financial institutions, of food coupons accepted by retail food stores and wholesale food concerns from program participants.

In addition, 7 CFR 278.5 of the Food Stamp Program (FSP) regulations governs the participation of financial institutions and the Federal Reserve participation in the food coupon redemption process. Requirements in the FSP regulations are the basis for the information collected on Form FNS–521, Food Coupon Deposit Document (FCDD). The FCDD is required to be used by financial institutions when they deposit food coupons at Federal Reserve Banks (FRBs).

The proposed revision to the information collection burden associated with Form FNS–521 reflects a reduction because of the decreased number of FCDDs processed by the program respondents. The number of responses per respondent decreased significantly as FNS phased-out the issuance of paper food coupons and implemented the Electronic Benefit Transfer (EBT) system nationwide. Currently, 100 percent of all food stamp benefits are issued electronically. Some paper food coupons remain in circulation, however, as they were issued before EBT was fully implemented in each of the States. FNS is seeking approval not to display the expiration date of the information collection because it is impractical and not cost efficient to incur expenses for a form thats use is rapidly declining due to the number of FCDDs processed annually. As a result of the decreased number of FCDDs now processed, the FRBs have consolidated their processing points from 37 locations to one location.

Respondents: Financial institutions and Federal Reserve Banks.

Estimated Average Number of Respondents: 10,000.

Estimated Annual Number of Responses per Respondent: The number of responses is estimated to be 0.0470572 responses per financial institution or Federal Reserve Bank per year.

Estimated Total Average Annual Responses: 470.5729.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.0097404 hours per response.

Estimated Total Average Annual Burden: 4.583615 hours.

Dated: April 24, 2008.

Roberto Salazar,

Administrator, Food and Nutrition Service.

[FR Doc. E8–9770 Filed 5–2–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

National Urban and Community Forestry Advisory Council

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting and public listening forum.

SUMMARY: The National Urban and Community Forestry Advisory Council will meet in Rio Grande, Puerto Rico on June 16–20, 2008. The purpose of the meeting is to discuss emerging issues in urban and community forestry, and conduct a one-day public listening forum on tropical urban forestry issues and opportunities on Wednesday, June 18, 2008.

DATES: The meeting will be held on June 16–20, 2008, 9 a.m. to 5 p.m. Monday thru Thursday, Friday 9 a.m. to noon.

ADDRESSES: The meeting will be held at the Gran Melia Hotel, Road #3 Sect. 955–I Coco Beach, Rio Grande, Puerto Rico 00745. Written comments concerning this meeting should be addressed to Nancy Stremple, Executive Staff to National Urban and Community Forestry Advisory Council, 1400 Independence Avenue, SW., Yates Building (1 Central) MS–1151, Washington, DC 20250–1151. Comments may also be sent via e-mail to *nstremple@fs.fed.us,* or via facsimile to (202) 690–5792.

All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the above address. Visitors are encouraged to call ahead to (202) 205–1054 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Nancy Stremple, Executive Staff or Robert Prather, Staff Assistant to National Urban and Community Forestry Advisory Council, 1400 Independence Avenue, SW., Yates Building (1 Central) MS–1151,

Washington, DC 20250–1151, phone (202) 205–1054.

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The general business meeting (Monday, Tuesday, and Friday) is open to the public. Council discussion is limited to Forest Service staff and Council members; however, persons who wish to address the Council on urban and community forestry matters, during the business meeting, may schedule a date and time on the agenda by contacting Nancy Stremple at least two weeks prior to the meeting. Written statements may also be submitted to the attention of the Council on urban and community forestry matters before or after the meeting.

On Wednesday, June 18, 2008, the public listening forum will be held on tropical urban forestry issues and opportunities from 9 a.m. to 4 p.m. and is open for public participation. For those interested in participating in the public listening forum, please register by close of business on Thursday, June 12, 2008, with the Puerto Rico International Institute of Tropical Forestry (IITF) staff; meeting space will be limited. IITF contacts Magaly Figueroa or Aixa Mojica may be reached at (787) 766–5335 ext. 118 or 227, or via e-mail, *mafigueroa@fs.fed.us, amojica@fs.fed.us.*

Dated: April 26, 2008.

James Hubbard,

Deputy Chief, State and Private Forestry.

[FR Doc. E8–9761 Filed 5–2–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Upcoming Sunset Reviews.

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for June 2008

The following Sunset Reviews are scheduled for initiation in June 2008 and will appear in that month's Notice of Initiation of Five-year Sunset Reviews.

Antidumping Duty Proceedings	Department Contact
Polyvinyl Alcohol from the PRC (A–570–879)	Brandon Farlander (202) 482–0182
Polyvinyl Alcohol from Japan (A–588–861)	Brandon Farlander (202) 482–0182
Polyvinyl Alcohol from South Korea (A–580–850)	Brandon Farlander (202) 482–0182
Saccharin from the PRC (A–570–878)	Juanita Chen (202) 482–1904
Countervailing Duty Proceedings	
No Sunset Review of countervailing duty proceedings are scheduled for initiation in June 2008.	
Suspended Investigations	
No Sunset Review of suspended investigations are scheduled for initiation in June 2008.	

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998). The Notice of Initiation of Five-year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 15 days of the publication of the Notice of Initiation.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 24, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–9849 Filed 5–2–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as

defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with section 351.213 (2007) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review: Not later than the last day of May 2008,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in May for the following periods:

	Period
Antidumping Duty Proceeding	
Belgium: Stainless Steel Plate in Coils A–423–808	5/1/07–4/30/08
Brazil: Iron Construction Castings A–351–503	5/1/07–4/30/08
France: Antifriction Bearings, Ball A–427–801	5/1/07–4/30/08
Germany: Antifriction Bearings, Ball A–428–801	5/1/07–4/30/08
India:	
Silicomanganese A–533–823	5/1/07–4/30/08
Welded Carbon Steel Pipes and Tubes A–533–502	5/1/07–4/30/08
Italy:	
Antifriction Bearings, Ball A–475–801	5/1/07–4/30/08
Stainless Steel Plate in Coils A–475–822	5/1/07–4/30/08
Japan:	
Antifriction Bearings, Ball A–588–804	5/1/07–4/30/08
Gray Portland Cement and Clinker A–588–815	5/1/07–4/30/08
Kazakhstan: Silicomanganese A–834–807	5/1/07–4/30/08
Republic of Korea:	
Polyester Staple Fiber A–580–839	5/1/07–4/30/08
Stainless Steel Plate in Coils A–580–831	5/1/07–4/30/08
South Africa: Stainless Steel Plate in Coils A–791–805	5/1/07–4/30/08
Taiwan:	
Certain Circular Welded Carbon Steel Pipe & Tubes A–583–008	5/1/07–4/30/08
Polyester Staple Fiber A–583–833	5/1/07–4/30/08
Stainless Steel Plate in Coils A–583–830	5/1/07–4/30/08
The People's Republic of China:	
Iron Construction Castings A–570–502	5/1/07–4/30/08
Pure Magnesium A–570–832	5/1/07–4/30/08
The United Kingdom: Antifriction Bearings, Ball A–412–801	5/1/07–4/30/08
Turkey: Welded Carbon Steel Pipe and Tube A–489–501	5/1/07–4/30/08
Venezuela: Silicomanganese A–307–820	5/1/07–4/30/08
Countervailing Duty Proceedings	
Belgium: Stainless Steel Plate in Coils C–423–809	1/1/07–12/31/07
Brazil: Iron Construction Castings C–351–504	1/1/07–12/31/07
South Africa: Stainless Steel Plate in Coils C–791–806	1/1/07–12/31/07

Suspension Agreements

None.

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters.[2] If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at *http://ia.ita.doc.gov*.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of May 2008. If the Department does not receive, by the last day of May 2008, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 22, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–9839 Filed 5–2–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

(A–489–807)

Certain Steel Concrete Reinforcing Bars from Turkey; Final Results of the Expedited Sunset Review of the Antidumping Duty Order

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On February 1, 2008, the Department of Commerce (the Department) initiated a sunset review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act). The Department conducted an expedited (120-day) sunset review of this order. As a result of this sunset review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping. The dumping margins are identified in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: May 5, 2008.

FOR FURTHER INFORMATION: Irina Itkin or Brandon Farlander, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0656 or (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 1, 2008, the Department published the notice of initiation of the second sunset review of the antidumping duty order on rebar from Turkey pursuant to section 751(c) of the Act. *See Initiation of Five-year (''Sunset'') Reviews*, 73 FR 6128 (Feb. 1, 2008). The Department received the Notice of Intent to Participate from Nucor Corporation, CMC Steel Group, and Gerdau Ameristeel, Inc. (collectively ''the domestic interested parties''), within the deadline specified in 19 CFR 351.218(d)(1)(i) (Sunset Regulations). The domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic–like product in the United States.

We received complete substantive responses from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no responses from respondent interested parties with respect to the order covered by this sunset review. As a result, pursuant to section 751(c)(4)(A) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department conducted an expedited (120-day) sunset review of this order.

Scope of the Order

The product covered by this order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot–rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low–alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable under subheadings 7213.10.000 and 7214.20.000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Analysis of Comments Received

All issues raised in this review are addressed in the ''Issues and Decision Memorandum for the Expedited Sunset Review of the Antidumping Duty Order on Certain Steel Concrete Reinforcing Bars from Turkey; Final Results'' (Decision Memo) from Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, to David M. Spooner, Assistant Secretary for Import Administration, dated **DATE** 2008, which is hereby adopted by this notice. The issues discussed in the Decision Memo include the likelihood of continuation or recurrence of dumping and the magnitude of the margins likely to prevail if the order were to be revoked. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum which is on file in the Central Records Unit, room 1117 of the main Commerce building.

In addition, a complete version of the Decision Memo can be accessed directly on the Web at http://ia.ita.doc.gov/frn, under the heading ''April 2008.'' The paper copy and electronic version of the Decision Memo are identical in content.

Final Results of Review

We determine that revocation of the antidumping duty order on rebar from Turkey would be likely to lead to continuation or recurrence of dumping at the following weighted–average percentage margins:

Manufacturers/Exporters/Producers	Weighted Average Margin (percent)
Colakoglu Metalurji A.S.	Revoked[1]
Ekinciler Demir Celik A.S.	18.68
Habas Sinai Ve Tibbi Gazlar Istihsal Endustrisi A.S.	18.54
Izmir Demir Celik Sanayi A.S.	41.80
Izmir Metalurji Fabrikasi Turk A.S.	30.16
All Others	16.06[2]

[1] *See Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination to Revoke in Part*, 72 FR 62630, 62631 (Nov. 6, 2007).

[2] On November 8, 2005, and November 6, 2007, respectively, ICDAS Celik Enerji Tersane ve Ulasim Sanayi, A.S. (ICDAS) and Diler Demir Celik Endustrisi ve Ticaret A.S./Diler Dis Ticaret A.S./Yazici Demir Celik Sanayi ve Turizm Ticaret A.S. were revoked from the order. We have a request pending before the Court of International Trade to reinstate ICDAS in the order.

This notice also serves as the only reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305 of the Department's regulations. Timely notification of the return or destruction of APO materials or conversion to judicial protective orders is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing the results and notice in accordance with sections 751(c), 752, and 777(i)(1) of the Act.

Dated: April 29, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9851 Filed 5–2–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–489–807)

Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Revoke in Part

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 certain steel concrete reinforcing bars (rebar) from Turkey with respect to four[1] companies. The respondents which the Department selected for individual review are Ekinciler Demir ve Celik Sanayi A.S. and Ekinciler Dis Ticaret A.S. (collectively ''Ekinciler''); and Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S. (Habas). The respondents which were not selected for individual review are listed in the ''Preliminary Results of Review'' section of this notice. The review covers the period April 1, 2006, through March 31, 2007.

We preliminarily determine that sales were made by Ekinciler below normal value (NV). In addition, based on the preliminary results for the respondents selected for individual review, we have preliminarily determined a weighted–average margin for those companies that were not selected for individual review but were responsive to the Department's requests for information. If these preliminary results are adopted in the final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries.

We have preliminarily determined to rescind the review with respect to three companies because these companies had no shipments of subject merchandise during the POR.

Interested parties are invited to comment on these preliminary results. We will issue the final results no later than 120 days from the date of publication of this notice.

EFFECTIVE DATE: May 5, 2008.

FOR FURTHER INFORMATION CONTACT: Irina Itkin, AD/CVD Operations, Office 2, Import Administration - Room 1870, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0656.

SUPPLEMENTARY INFORMATION:

Background

On April 2, 2007, the Department published in the **Federal Register** a notice of ''Opportunity To Request Administrative Review'' of the antidumping duty order on rebar from Turkey. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 72 FR 15650 (Apr. 2, 2007).

In accordance with 19 CFR 351.213(b)(2), on April 27 and 30, 2007, the Department received requests to conduct an administrative review of the antidumping duty order on rebar from Turkey from the following producers/exporters of rebar: Colakoglu Metalurji A.S. and Colakoglu Dis Ticaret A.S. (collectively ''Colakgolu''); Diler Demir Celik Endustri ve Ticaret A.S., Yazici Demir Celik Sanayi ve Turizm Ticaret A.S., and Diler Dis Ticaret A.S. (collectively ''Diler''); Ekinciler; Habas; Izmir Demir Celik Sanayi A.S. (IDC); and Nursan Celik Sanayi ve Haddecilik, A.S. and Nursan Dis Ticaret A.S. (collectively ''Nursan''). As part of their requests, Colakoglu, Diler, Ekinciler, and Habas also requested that the Department revoke the antidumping order with regard to them, in accordance with 19 CFR 351.222(b). Also, on April 30, 2007, the domestic interested parties, Nucor Corporation, Gerdau AmeriSteel Corporation and Commercial Metals Company, requested an administrative review for Colakoglu, Diler, Ege Celik Endustrisi Sanayi ve Ticaret A.S. and Ege Dis Ticaret A.S. (collectively ''Ege Celik''), Ekinciler, Habas, Kaptan Demir Celik Endustrisi ve Ticaret A.S. and Kaptan Metal Dis Ticaret ve Nakliyat A.S. (collectively ''Kaptan''), and Kroman Celik Sanayi A.S. (Kroman) pursuant to section 751(a) of the Tariff Act of 1930, as amended (the Act), and in accordance with 19 CFR 351.213(b)(1).

In May 2007, the Department initiated an administrative review for the nine companies listed above and requested that each provide data on the quantity and value (Q&V) of its exports of subject merchandise to the United States during the period of review (POR). *See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 29968 (May 30, 2007).

On June 4, 2007, we received responses to the Department's Q&V questionnaire from each company. In their responses, three exporters (*i.e.*, Ege Celik, Kaptan, and Kroman) informed the Department that they had no shipments or entries of subject merchandise during the POR. Because we confirmed this with CBP, we are preliminarily rescinding the review with respect to these companies. For further discussion, see the ''Partial Rescission of Review'' section of this notice.

Based upon our consideration of the responses to the Q&V questionnaire received and the resources available to the Department, we determined that it was not practicable to examine all exporters/producers of subject merchandise for which a review was requested. As a result, on July 16, 2007, we selected the four largest producers/

[1] This figure does not include companies for which the Department has rescinded or preliminarily rescinded this administrative review.

exporters of rebar from Turkey during the POR, Colakoglu, Diler, Ekinciler, and Habas, as the mandatory respondents in this proceeding. *See* the July 16, 2007, Memorandum to Stephen J. Claeys from James Maeder entitled, ''2006–2007 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey: Selection of Respondents for Individual Review.'' On this same date, we issued the antidumping duty questionnaire to these four companies.

In August 2007, we received responses to the questionnaire, as well as requests for voluntary respondent status, from IDC and Nursan. In September 2007, we received responses to the questionnaire from Ekinciler and Habas.

In November 2007, we rescinded the administrative review with respect to Colakoglu and Diler because the antidumping duty order was revoked with respect to them in the 2005–2006 administrative review. *See Certain Steel Concrete Reinforcing Bars from Turkey; Notice of Partial Rescission of the Antidumping Administrative Review*, 72 FR 65011 (Nov. 19, 2007). Also in November 2007, we declined to accept IDC and Nursan as voluntary respondents, despite a renewed request from IDC that we do so in light of the Department's determination to revoke merchandise produced and exported by Colakoglu and Diler from the order. *See* the November 8, 2007, Memorandum to James Maeder from the Team entitled, ''2006–2007 Administrative Antidumping Duty Review on Certain Steel Concrete Reinforcing Bars from Turkey: Voluntary Respondent Requests.''

Also in November 2007, we postponed the preliminary results of this review until no later than April 29, 2008. *See Certain Steel Concrete Reinforcing Bars from Turkey; Notice of Extension of Time Limits for Preliminary Results of Antidumping Duty Administrative Review and New Shipper Review*, 72 FR 64583 (Nov. 16, 2007).

During the period November 2007 through January 2008, we issued supplemental questionnaires to Ekinciler and Habas. We received responses to these questionnaires in December 2007 and January 2008.

In February 2008, we conducted an on–site verification of Ekinciler's and Habas' cost responses in Turkey. We intend to verify the sales responses of these respondents in May 2008.

Scope of the Order

The product covered by this order is all stock deformed steel concrete reinforcing bars sold in straight lengths and coils. This includes all hot–rolled deformed rebar rolled from billet steel, rail steel, axle steel, or low–alloy steel. It excludes (i) plain round rebar, (ii) rebar that a processor has further worked or fabricated, and (iii) all coated rebar. Deformed rebar is currently classifiable under subheadings 7213.10.000 and 7214.20.000 of the *Harmonized Tariff Schedule of the United States* (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this order is dispositive.

Period of Review

The POR is April 1, 2006, through March 31, 2007.

Partial Rescission of Review

On April 30, 2007, the Department received timely requests, in accordance with 19 CFR 351.213(b)(1), from the domestic interested parties to conduct a review of Ege Celik, Kaptan, and Kroman. The Department initiated a review of these three companies and requested that they supply data on the Q&V of their exports of rebar during the POR. On June 4, 2007, Ege Celik, Kaptan, and Kroman submitted responses to the Q&V questionnaire indicating that they did not export rebar the United States during the POR. We have confirmed this with information obtained from CBP. *See* the April 29, 2008, memorandum to the File from Irina Itkin, entitled ''Confirmation of No Shipments for Certain Companies in the 2006–2007 Antidumping Duty Administrative Review on Certain Steel Concrete Reinforcing Bars from Turkey.'' Therefore, in accordance with 19 CFR 351.213(d)(3), and consistent with the Department's practice, we are preliminarily rescinding our review with respect to these companies. *See, e.g., Certain Frozen Warmwater Shrimp from Thailand: Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52065, 52067 (Sept. 12, 2007); *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination To Revoke in Part*, 70 FR 67665, 67666 (Nov. 8, 2005).

Notice of Intent To Revoke, in Part

As noted above, on April 27 and 30, 2008, respectively, Habas and Ekinciler requested revocation of the antidumping duty order with respect to their sales of subject merchandise, pursuant to 19 CFR 351.222(b). These requests were accompanied by certifications that: 1) Ekinciler and Habas sold the subject merchandise at not less than NV during the current POR and will not sell the merchandise at less than NV in the future; and 2) they sold subject merchandise to the United States in commercial quantities for a period of at least three consecutive years. Ekinciler and Habas also agreed to immediate reinstatement of the antidumping duty order, as long as any exporter or producer is subject to the order, if the Department concludes that, subsequent to the revocation, they sold the subject merchandise at less than NV.

Pursuant to section 751(d) of the Act, the Department ''may revoke, in whole or in part'' an antidumping duty order upon completion of a review under section 751(a) of the Act. While Congress has not specified the procedures the Department must follow in revoking an order, the Department has developed a procedure for revocation that is described in 19 CFR 351.222. Sections 351.222(b)(1)(A) and 351.222(b)(2) of the Department's regulations explain that the Secretary may revoke an antidumping duty order in part if the Secretary concludes, *inter alia*, that one or more exporters or producers covered by the order have sold the subject merchandise in commercial quantities at not less than NV for a period of at least three consecutive years. *See Notice of Final Results of the Antidumping Duty Administrative Review and Determination Not to Revoke the Antidumping Duty Order: Brass Sheet and Strip from the Netherlands*, 65 FR 742, 743 (Jan. 6, 2000). Our analysis of each company's revocation request is presented below.

1. Ekinciler

Regarding Ekinciler, we do not find that its request for revocation meets all of the criteria under 19 CFR 351.222(b). Specifically, we find that Ekinciler has sold rebar at less than NV in the two previous administrative reviews in which it was involved (*i.e.*, its dumping margins were above *de minimis*). *See Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination to Revoke in Part*, 72 FR 62630 (Nov. 6, 2007) (*2005–2006 Final Results*) and *Certain Steel Concrete Reinforcing Bars From Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082 (Nov. 7, 2006) (*2004–2005 Final Results*), unchanged in *Notice of Amended Final Results and Rescission of Antidumping Duty Administrative Review in Part: Certain Steel Concrete*

Reinforcing Bars From Turkey, 71 FR 75711 (Dec. 18, 2006) (*2004–2005 Amended Final Results*). Therefore, we preliminarily determine that Ekinciler does not qualify for revocation of the order on rebar pursuant to 19 CFR 351.222(b)(2), and that the order with respect to merchandise produced and exported by Ekinciler should not be revoked.

Ekinciler contends that it is entitled to revocation in this segment of the proceeding, based on its claim that it anticipates that it will receive a zero or *de minimis* margin for the prior reviews, following completion of the court's review of Ekinciler's appeal of the final results. However, it is not the Department's policy to take pending court appeals into account when determining whether revocation of the merchandise produced and exported by a particular company from an existing antidumping duty order is warranted. *See, e.g., Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Review, and Notice of Revocation (in Part)*, 59 FR 15159, 15166 (Mar. 31, 1994); *Color Television Receivers from the Republic of Korea; Final Results of Antidumping Duty Administrative Reviews*, 61 FR 4408, 4414 (Feb. 6, 1996). While we acknowledge that the Department's determinations in the two prior segments of this proceeding are currently in litigation, there is no final and conclusive judgment from any court supporting Ekinciler's arguments. In fact, the Court of International Trade (CIT) affirmed the Department's analysis in the 2004–2005 review which resulted in a dumping margin above *de minimis* for Ekinciler. Moreover, our position in that litigation remains unchanged – namely that the final results were supported by substantial evidence and are fully in accordance with U.S. antidumping law. Thus, if anything, the CIT's decision supports our conclusion that Ekinciler continued to dump subject merchandise over the last three years, and revocation pursuant to 19 CFR 351.222(b) is not warranted.

2. Habas

We preliminarily determine that the request from Habas meets all of the criteria under 19 CFR 351.222(b) and that revocation with regard to Habas is warranted. With regard to the criteria of subsection 19 CFR 351.222(b)(2), our preliminary margin calculations show that Habas sold rebar at not less than NV during the current review period. *See* the ''Preliminary Results of the Review'' section below. In addition, Habas sold rebar at not less than NV in the two previous administrative reviews in which it was involved (*i.e.*, its dumping margins were zero or *de minimis*). *See 2005–2006 Final Results* and *2004–2005 Final Results* unchanged in *2004–2005 Amended Final Results*.

Based on our examination of the sales data submitted by Habas, we preliminarily determine that it sold the subject merchandise in the United States in commercial quantities in each of the consecutive years cited by it to support its request for revocation. *See* the April 29, 2008, Memorandum to the File from Irina Itkin entitled, ''Analysis of Habas Sinai ve Tibbi Gazlar Istihsal Endustrisi A.S.'s Commercial Quantities for Request for Revocation.'' Thus, we preliminarily find that Habas had zero or *de minimis* dumping margins for its last three administrative reviews and sold subject merchandise in commercial quantities in each of these years. Also, we preliminarily determine that the application of the antidumping duty order with respect to rebar produced and exported by Habas is no longer warranted for the following reasons: 1) the company had zero or *de minimis* margins for a period of at least three consecutive years; 2) the company has agreed to immediate reinstatement of the order if the Department finds that it has resumed making sales at less than NV; and 3) the continued application of the order is not otherwise necessary to offset dumping. Therefore, we preliminarily determine that subject merchandise produced and exported by Habas qualifies for revocation of the order on rebar pursuant to 19 CFR 351.222(b)(2), and that the order with respect to such merchandise should be revoked. If these preliminary findings are affirmed in our final results, we will revoke this order in part with respect to rebar produced and exported by Habas and, in accordance with 19 CFR 351.222(f)(3), terminate the suspension of liquidation for any of the merchandise in question that is entered, or withdrawn from warehouse, for consumption on or after April 1, 2007, and instruct CBP to refund any cash deposits for such entries.

Comparisons to Normal Value

To determine whether sales of rebar from Turkey were made in the United States at less than NV, we compared the export price (EP) to the NV, as described in the ''Normal Value'' section of this notice. When making comparisons in accordance with section 771(16) of the Act, we considered all products sold in the home market as described in the ''Scope of the Order'' section of this notice, above, that were in the ordinary course of trade for purposes of determining appropriate product comparisons to U.S. sales. Where there were no sales of identical merchandise in the home market made in the ordinary course of trade, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade based on the characteristics listed in sections B and C of our antidumping questionnaire.

Product Comparisons

In accordance with section 771(16) of the Act, we first attempted to compare products produced by the same company and sold in the U.S. and home markets that were identical with respect to the following characteristics: form, grade, size, and industry standard specification. Where there were no home market sales of foreign like product that were identical in these respects to the merchandise sold in the United States, we compared U.S. products with the most similar merchandise sold in the home market based on the characteristics listed above, in that order of priority. For Ekinciler, because we used two cost periods (see below), we did not compare products across periods.

Export Price

We used EP methodology for all U.S. sales, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation, and constructed export price methodology was not otherwise warranted based on the facts of record.

Regarding U.S. date of sale, Ekinciler and Habas argued that we should use contract date as the date of sale for their U.S. sales in this review. After analyzing the record, we determine that contract date is inappropriate with regard to Habas because: 1) we previously found that the terms of sale (*i.e.*, price and quantity) were changeable after the contract date for Habas (*see Certain Steel Concrete Reinforcing Bars From Turkey; Final Results of Antidumping Duty Administrative Review and New Shipper Review and Determination to Revoke in Part*, 72 FR 25253, 25256 (May 4, 2007) (*2005–2006 Preliminary Results*), unchanged in *2005–2006 Final Results*, and *Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 26455, 26458 (May 5, 2006) (*2004–2005 Preliminary Results*), unchanged in *2004–2005 Final Results*); and 2) we find that there were no changes in the sales process, customers, types of contracts, etc., between the previous

administrative review and the current POR for Habas. Where the Department does not use contract date, it uses the earlier of invoice or shipment date as the date of sale. Therefore, for Habas, we have used whichever of these dates is appropriate on a transaction–specific basis.

Further, regarding Ekinciler, we determined that the appropriate U.S. date of sale is contract date because, as in the two previous administrative reviews, we find that the material terms of sale were set at the contract date, given that the terms did not change prior to invoicing (*see id.*), and there were no changes in the sales process between this and prior segments.

A. Ekinciler

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions from the starting price for foreign inland freight, customs overtime fees, crane charges, terminal charges, inspection fees, ocean freight expenses, marine insurance expenses, U.S. customs duties, and U.S. brokerage and handling expenses, in accordance with section 772(c)(2)(A) of the Act.

B. Habas

We based EP on packed prices to the first unaffiliated purchaser in the United States. We made deductions from the starting price for foreign inland freight expenses, customs overtime fees, loading and handling charges, surveying expenses, and ocean freight expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

Normal Value

A. Home Market Viability and Selection of Comparison Markets

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, in accordance with section 773(a)(1)(B) of the Act. Based on this comparison, we determined that each respondent had a viable home market during the POR. Consequently, we based NV on home market sales.

For each respondent, in accordance with our practice, we excluded home market sales of non–prime merchandise made during the POR from our preliminary analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POR. *See*, *e.g.*, *2005–2006 Preliminary Results*, 72 FR at 25257, unchanged in *2005–2006 Final Results*; *2004–2005 Preliminary Results*, 71 FR at 26459, unchanged in *2004–2005 Final Results*; *Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results, and Partial Rescission of Antidumping Duty Administrative Review and Notice of Intent To Revoke in Part*, 70 FR 23990, 23993 (May 6, 2005), unchanged in *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results, and Rescission of Antidumping Duty Administrative Review in Part, and Notice of Intent To Revoke in Part*, 70 FR 67665 (Nov. 8, 2005).

B. Affiliated–Party Transactions and Arm's–Length Test

Ekinciler and Habas made sales of rebar to affiliated parties in the home market during the POR, as defined in section 771(33) of the Act. Consequently, we tested these sales to ensure that they were made at arm's–length prices, in accordance with 19 CFR 351.403(c). 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, and packing expenses. Pursuant to 19 CFR 351.403(c) and in accordance with the Department's practice, 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 (LOT), 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 (Nov. 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 and 102 percent in order for sales to be considered in the ordinary course of trade and used in the NV calculation). Sales to affiliated customers in the home market that were not made at arm's–length prices were excluded from our analysis because we considered these sales to be outside the ordinary course of trade. *See* 19 CFR 351.102(b).

C. Cost of Production Analysis

Pursuant to section 773(b)(2)(A)(ii) of the Act, for Ekinciler and Habas there were reasonable grounds to believe or suspect that these respondents made home market sales at prices below their costs of production (COPs) in this review because the Department had disregarded sales that failed the cost test for these companies in the most recently completed segment of this proceeding in which these companies participated (*i.e.*, the 2004–2005 administrative review) at the time of the initiation of this administrative review. As a result, the Department initiated an investigation to determine whether these companies made home market sales during the POR at prices below their COPs.

1. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the respondents' cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses. *See* the ''Test of Home Market Sales Prices'' section below for treatment of home market selling expenses.

We relied on the COP information provided by each respondent in its questionnaire responses, except for the following instances where the information was not appropriately quantified or valued:

A. Ekinciler

In its questionnaire response, Ekinciler requested that the Department calculate its costs on a quarterly basis because the cost of scrap increased sharply during the POR. After analyzing this request, we disagree that the change in scrap prices was significant enough to warrant a departure from the Department's normal practice of computing COP on an annual basis. Nonetheless, because we found that a significant amount of Ekinciler's home market sales have a date of sale prior to the POR and that the cost of production increased appreciably from the prior POR to the current POR, we requested that Ekinciler provide the COP data from the prior review period (*i.e.*, April 1, 2005, through March 31, 2006). For these preliminary results, we have used two separate annualized cost periods to calculate Ekinciler's costs in order to match sales of goods to the cost of manufacturing for the period in which those goods were sold. Thus, we used two cost periods for Ekinciler. For those sales with a date of sale prior to the POR, we used the average POR cost from the 2005–2006 administrative review, as adjusted for the final results.

B. Habas

We made no adjustments to the COP information reported by Habas.

2. Test of Home Market Sales Prices

We compared the weighted–average COP figures to home market prices of the foreign like product, as required under section 773(b) of the Act, to determine whether these sales had been made at prices below the COP. On a product–specific basis, we compared the COP to home market prices, less any applicable movement charges, selling expenses, and packing expenses.

In determining whether to disregard home market sales made at prices below the COP, we examined whether such sales were made: 1) in substantial quantities within an extended period of time; and 2) at prices which permitted the recovery of all costs within a reasonable period of time. *See* sections 773(b)(1)(A) and (B) of the Act.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) 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 were at prices below the COP, we determined that sales of that model were made in ''substantial quantities'' within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, 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, for purposes of this administrative review, we disregarded these below–cost sales for Ekinciler and Habas and used the remaining sales as the basis for determining NV, in accordance with section 773(a)(1) of the Act.

D. 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 EP. The NV LOT is that of the starting–price sales in the comparison market or, when NV is based on constructed value, that of the sales from which we derive selling, G&A expenses, and profit. For EP, the U.S. LOT is also the level of the starting–price sale, which is usually from the exporter to the unaffiliated U.S. customer.

To determine whether NV sales are at a different LOT than EP 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 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 LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

Both respondents in this review claimed that they sold rebar at a single LOT in their home and U.S. markets. Ekinciler and Habas reported that they sold rebar directly to various categories of customers in the home market. Regarding U.S. sales, both respondents reported only EP sales to the United States to a single customer category (*i.e.*, unaffiliated traders). Similar to their home market channels of distribution, Ekinciler and Habas reported direct sales to U.S. customers.

To determine whether sales to any of these customer categories were made at different LOTs, we examined the stages in the marketing process and selling functions along the chain of distribution for each of these respondents. Regarding home market sales, each of the respondents reported that it performed identical selling functions across customer categories in the home market. After analyzing the data on the record with respect to these functions, we find that the respondents performed the same selling functions for their home market customers, regardless of customer category or channel of distribution. Accordingly, we find that all of the respondents made all sales at a single marketing stage (*i.e.*, at one LOT) in the home market.

Regarding U.S. sales, each of the respondents reported that it only made sales to one customer category through one channel of distribution in the U.S. market and, thus, identical selling functions were performed for all sales. Therefore, after analyzing the data on the record with respect to these functions, we find that the respondents made all sales at a single marketing stage (*i.e.*, at one LOT) in the U.S. market.

Although each of the respondents provided certain additional services for U.S. sales and not home market sales, we did not find these differences to be material selling function distinctions significant enough to warrant a separate LOT for any respondent. Therefore, after analyzing the selling functions performed in each market, we find that the distinctions in selling functions are not material and thus, that the home market and U.S. LOTs are the same. Accordingly, we determined that sales in the U.S. and home markets during the POR for each respondent were made at the same LOT, and as a result, no LOT adjustment is warranted for either of the respondents.

E. Calculation of Normal Value

1. Ekinciler

We based NV on the starting prices to home market customers. Where appropriate, we made deductions from the starting price for billing adjustments. In addition, where appropriate, we made deductions for foreign inland freight expenses, in accordance with section 773(a)(6)(B) of the Act.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made circumstance–of-sale adjustments for credit expenses, bank charges, and exporter association fees. We deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

Where appropriate, we made an adjustment to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411(a). Consistent with the use of production costs for the two cost periods noted above, we have relied on the corresponding production costs for purposes of calculating our difference in merchandise adjustment.

2. Habas

We based NV on the starting prices to home market customers. For those home market sales negotiated in U.S. dollars, we used the U.S.-dollar price, rather than the Turkish lira (YTL) price adjusted for *kur farki* (*i.e.*, an adjustment to the YTL invoice price to account for the difference between the estimated and actual YTL value on the date of payment), because the only price agreed upon was a U.S.-dollar price, which remained unchanged. The buyer merely paid the YTL–equivalent amount at the time of payment. This treatment is consistent with our treatment of these transactions in the most recently completed segment of this proceeding. *See 2005–2006 Preliminary Results*, 72 FR at 25260, unchanged in the final results.

Pursuant to section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410(b), we made circumstance–of-sale adjustments for credit expenses and exporter association fees. We deducted home market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

Where appropriate, we made an adjustment to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411(a).

Currency Conversion

We made currency conversions into U.S. dollars pursuant to section 773A(a) of the Act and 19 CFR 351.415. Although the Department's preferred source for daily exchange rates is the Federal Reserve Bank, the Federal Reserve Bank does not track or publish exchange rates for Turkish Lira. Therefore, we made currency conversions based on exchange rates from the Dow Jones Reuters Business Interactive LLC (trading as Factiva).

Preliminary Results of the Review

We preliminarily determine that the following margins exist for the respondents during the period April 1, 2006, through March 31, 2007:

Manufacturer/Producer/Exporter	Percent Margin
Ekinciler Demir ve Celik Sanayi A.S./Ekinciler Dis Ticaret A.S.	3.42
Habas Sinai ve Tibbi Gazlar Istithsal Endustrisi A.S.	0.00

Review–Specific Average Rate Applicable to the Following Companies:[2]

Manufacturer/Exporter	Percent Margin
Izmir Demir Celik Sanayi A.S.	3.42
Nursan Celik Sanayi ve Haddecilik, A.S. /Nursan Dis Ticaret A.S.	3.42

Disclosure and Public Hearing

The Department will disclose to parties the calculations performed in connection with these preliminary results within five days of the date of publication of this notice. *See* 19 CFR 351.224(b). Pursuant to 19 CFR 351.309, interested parties may submit cases briefs not later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication of this notice. Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each argument: 1) a statement of the issue; 2) a brief summary of the argument; and, 3) a table of authorities.

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, Room 1870, within 30 days of the date of publication of this notice. Requests should contain: 1) the party's name, address and telephone number; 2) the number of participants; and, 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 respective case briefs. The Department will issue the final results of the administrative review, including the results of its analysis of issues raised in any written briefs, not later than 120 days after the date of publication of this notice, pursuant to section 751(a)(3)(A) of the Act.

Assessment

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department will issue appropriate appraisement instructions for the companies subject to this review directly to CBP 15 days after the date of publication of the final results of this review.

Pursuant to 19 CFR 351.212(b)(1), for all sales made by Ekinciler, because Ekinciler is the importer of record, we have the reported entered value of the U.S. sales. Therefore, we have calculated importer–specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Regarding Habas' sales, we note that it did not report the entered value for the U.S. sales in question. Accordingly, we have calculated importer–specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. 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 the estimated entered value.

For the responsive companies which were not selected for individual review, we will calculate an assessment rate based on the weighted average of the cash deposit rates calculated for the companies selected for individual review excluding any which are *de minimis* or determined entirely on AFA.

We will instruct CBP to assess antidumping duties on all appropriate entries covered by these reviews if any importer–specific assessment rate calculated in the final results of these reviews is above *de minimis* (*i.e.*, at or above 0.50 percent). Pursuant to 19 CFR 351.106(c)(2), we will instruct CBP to liquidate without regard to antidumping duties any entries for which the assessment rate is *de minimis* (*i.e.*, less than 0.50 percent). *See* 19 CFR 351.106(c)(1).

We are preliminarily revoking the order with respect to shipments of rebar produced and exported by Habas. If this revocation becomes final, we will instruct CBP to terminate the suspension of liquidation for exports of such merchandise entered, or withdrawn from warehouse, for consumption on or after April 1, 2007, and to refund all cash deposits collected.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

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 POR 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).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise (except shipments of rebar produced and exported by Habas, as noted above) entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the administrative review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for each specific company listed above will be that established in the final results of these reviews, except if the rate is less than 0.50 percent, and therefore, *de minimis* within the meaning of 19 CFR 351.106(c)(1), in which case the cash deposit rate will be zero; 2) for

[2] This rate is based on the weighted average of the margins calculated for those companies selected for individual review, excluding *de minimis* margins or margins based entirely on adverse facts available (AFA).

previously reviewed or investigated companies not participating in these reviews, 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 these reviews or the original 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) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the all–others rate established in the LTFV investigation. These requirements, when imposed, shall remain in effect until further notice.

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.

We are issuing and publishing the results of this administrative review in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: April 29, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9887 Filed 5–2–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–821–819)

Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: In response to timely requests, the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on magnesium metal from the Russian Federation for the period of review (POR) April 1, 2006, through March 31, 2007. The review covers two respondents, PSC VSMPO–AVISMA Corporation (AVISMA) and Solikamsk Magnesium Works (SMW).

The Department preliminarily determines that AVISMA and SMW made sales to the United States at less than normal value. 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 AVISMA's and SMW's merchandise during the POR. The preliminary results are listed below in the section titled ''Preliminary Results of Review.''

EFFECTIVE DATE: May 5, 2008.

FOR FURTHER INFORMATION CONTACT: Dmitry Vladimirov or Minoo Hatten, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0665 or (202) 482–1690, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on magnesium metal from the Russian Federation on April 15, 2005. See *Notice of Antidumping Duty Order: Magnesium Metal from the Russian Federation*, 70 FR 19930 (April 15, 2005) (*Antidumping Duty Order*). On April 2, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on magnesium metal from the Russian Federation. See *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 15650 (April 2, 2007). On April 30, 2007, AVISMA, a Russian Federation producer of the subject merchandise, requested that the Department conduct an administrative review. On April 30, 2007, U.S. Magnesium Corporation LLC, the petitioner in this proceeding, also requested that the Department conduct an administrative review with respect to AVISMA and SMW, another Russian Federation producer of the subject merchandise. On May 30, 2007, the Department published a notice of initiation of an administrative review of the antidumping duty order on magnesium metal from the Russian Federation for the period April 1, 2006, through March 31, 2007. See *Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation in Part*, 72 FR 29968 (May 30, 2007).

On December 18, 2007, the Department extended the deadline for the preliminary results of this antidumping duty administrative review from December 31, 2007, to April 29, 2008. See *Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review: Magnesium Metal From the Russian Federation*, 72 FR 71620 (December 18, 2007).

Scope of the Order

The merchandise covered by the order is magnesium metal (also referred to as magnesium), which includes primary and secondary pure and alloy magnesium metal, regardless of chemistry, raw material source, form, shape, or size. Magnesium is a metal or alloy containing by weight primarily the element magnesium. Primary magnesium is produced by decomposing raw materials into magnesium metal. Secondary magnesium is produced by recycling magnesium–based scrap into magnesium metal. The magnesium covered by the order includes blends of primary and secondary magnesium.

The subject merchandise includes the following pure and alloy magnesium metal products made from primary and/or secondary magnesium, including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, and magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: (1) products that contain at least 99.95 percent magnesium, by weight (generally referred to as ''ultra–pure'' magnesium); (2) products that contain less than 99.95 percent but not less than 99.8 percent magnesium, by weight (generally referred to as ''pure'' magnesium); and (3) chemical combinations of magnesium and other material(s) in which the magnesium content is 50 percent or greater, but less that 99.8 percent, by weight, whether or not conforming to an ''ASTM Specification for Magnesium Alloy''.

The scope of the order excludes: (1) magnesium that is in liquid or molten form; and (2) mixtures containing 90 percent or less magnesium in granular or powder form by weight and one or more of certain non–magnesium granular materials to make magnesium–based reagent mixtures, including lime, calcium metal, calcium silicon, calcium carbide, calcium carbonate, carbon, slag coagulants, fluorspar, nephaline syenite, feldspar, alumina (Al203), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly

ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[1]

The merchandise subject to the order is currently classifiable under items 8104.11.00, 8104.19.00, 8104.30.00, and 8104.90.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS item numbers are provided for convenience and customs purposes, the written description of the merchandise covered by the order is dispositive.

On November 9, 2006, in response to U.S. Magnesium Corporation LLC's request for scope rulings, the Department issued final scope rulings in which it determined that the processing of pure magnesium ingots imported from Russia by Timminco, a Canadian company, into pure magnesium extrusion billets constitutes substantial transformation. Therefore, such alloy magnesium extrusion billets produced and exported by Timminco are a product of Canada and thus are not within the scope of the order. See November 9, 2006, Memorandum for Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from Barbara E. Tillman, Director, Office 6, and Wendy Frankel, Director, Office 8, China/NME Group, AD/CVD Operations: Pure Magnesium from the People's Republic of China (A–570–832), Magnesium Metal from the People's Republic of China (A–570–896), and Magnesium Metal from Russia (A–821–819): Final Ruling in the Scope Inquiry on Russian and Chinese Magnesium Processed in Canada.

Use of Facts Otherwise Available

For the reasons discussed below, we determine that the use of adverse facts available (AFA) is appropriate for the preliminary results of this review with respect to SMW.

A. Use of Facts Available

Section 776(a)(2) of the Tariff Act of 1930, as amended (the Act), provides that, if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in section 782(i), the administering authority shall use, subject to section 782(d) of the Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Act provides that, if the administering authority determines that a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Act states further that the Department shall not decline to consider submitted information if 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.

On July 11, 2007, SMW notified the Department that it would not participate in this administrative review. As such, SMW failed to respond to our questionnaire, thereby withholding, among other things, home–market and U.S. sales information necessary for reaching the applicable results. Such information is imperative to calculate an antidumping margin for the preliminary results of the review. Because SMW failed to provide the information requested and thus significantly impeded the proceeding, we find that we must base its margin on facts otherwise available pursuant to sections 776(a)(2)(A), (B), and (C) of the Act. Further, sections 782(d) and (e) of the Act are inapplicable because SMW decided not to provide the Department with any information.

B. Application of Adverse Inferences for Facts Available

In applying the facts otherwise available, section 776(b) of the Act provides that, if the administering 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, in reaching the applicable determination under this title the administering authority may use an inference adverse to the interests of that party in selecting from among 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 Statement of Administrative Action accompanying the Uruguay Round Agreements Act, H.R. Doc. No. 103–316, vol.1 (1994) at 870 (*SAA*). Further, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' See *Antidumping Duties; Countervailing Duties*, 62 FR 27296, 27340 (May 19, 1997). Because SMW has not provided any information in response to our questionnaire and has notified us that it would not participate in this review, we find that SMW has not acted to the best of its ability in providing us with relevant information which is under its control. This constitutes a failure on the part of SMW to cooperate to the best of its ability to comply with a request for information by the Department within the meaning of section 776(b) of the Act. Based on the above, the Department has preliminarily determined that, in selecting from among the facts otherwise available, an adverse inference is warranted. See, *e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985, 42986 (July 12, 2000) (the Department applied total AFA where the respondent failed to respond to the antidumping questionnaire).

C. Selection and Corroboration of Information Used as Facts Available

Section 776(b) of the Act provides that the Department may use as AFA information derived from the petition, the final determination in the investigation, any previous review, or any other information placed on the record. When selecting an AFA rate from among the possible sources of information, the Department's practice has been to ensure that the margin is sufficiently adverse to induce respondents to provide the Department with complete and accurate information in a timely manner. See, *e.g., Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part*, 71 FR 65082, 65084 (November 7, 2006). In selecting an appropriate AFA rate for SMW, the Department considered the following rates from the proceeding: 1) the rates alleged in the petition which range from 54.40 to 68.94 and 86.54 to 101.24 percent (when taking into account

[1] This second exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000-2001 investigations of magnesium from China, Israel, and Russia. See *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium in Granular Form From the People's Republic of China*, 66 FR 49345 (September 27, 2001); *Notice of Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel*, 66 FR 49349 (September 27, 2001); *Notice of Final Determination of Sales at Not Less Than Fair Value: Pure Magnesium From the Russian Federation*, 66 FR 49347 (September 27, 2001). These mixtures are not magnesium alloys, because they are not chemically combined in liquid form and cast into the same ingot.

adjustments for electricity; see *Notice of Initiation of Antidumping Duty Investigations: Magnesium Metal From the People's Republic of China and the Russian Federation*, 69 FR 15293 (March 25, 2004)); 2) the rates we calculated for the final determination of the investigation which ranged from 18.65 to 21.71 percent (see *Antidumping Duty Order*); and 3) the rates we calculated in the first administrative review (the most recently completed review), 0.41 and 3.77 percent (see *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 72 FR 51791 (September 11, 2007)).

Section 776(c) of the Act provides that the Department shall corroborate, to the extent practicable, secondary information used for facts available by reviewing independent sources reasonably at its disposal. With respect to the rates alleged in the petition, information from prior segments of the proceeding constitutes secondary information. See *SAA* at 870 and *Final Results of Antidumping Duty Administrative Reviews, Rescission of Administrative Reviews in Part, and Determination to Revoke Order in Part: Antifriction Bearings and Parts Thereof From France, Germany, Italy, Japan, Singapore, and the United Kingdom*, 69 FR 55574, 55577 (September 15, 2004) (AFBs 14). The word ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *Id.*; see also *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings Four Inches or Less in Outside Diameter, and Components Thereof, from Japan: Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996). To corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used.

Because SMW did not submit information we requested in this review we do not have such information to consider in determining whether the petition rates are relevant to SMW. To determine whether the petition rates are reliable and relevant in this administrative review, we compared the transaction–specific margins of AVISMA for the POR to the petition rates and found that the petition rates were not relevant for use in this administrative review and, therefore, do not have probative value for use as AFA.

In addition, we find that the weighted–average rates we calculated for respondents in the previous, as well as in the instant review, are not sufficiently high as to effectuate the purpose of the facts–available rule (*i.e.*, we do not find that any of these rates are high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act). Therefore, as facts available with an adverse inference, we have selected the rate of 21.71 percent for SMW, the weighted–average margin the Department calculated for JSC AVISMA Magnesium–Titanium Works (a predecessor to PSC VSMPO–AVISMA Corporation) in the original investigation (see *Antidumping Duty Order*); it is the highest rate the Department has calculated in any segment of the proceeding. We consider the 21.71 percent rate to be sufficiently high so as to encourage participation in future segments of this proceeding.

With respect to corroboration of other rates from the proceeding, unlike other types of information such as input costs or selling expenses, there are no independent sources for calculated dumping margins. The only source for margins is administrative determinations. Thus, with respect to an administrative review, if the Department chooses as facts available a calculated dumping margin from a prior segment of the proceeding, there is no practical manner to test the margin's reliability further and the Department considers the rate reliable. See *AFBs 14* at 55577.

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 a margin not relevant. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin *and determine an appropriate margin. See* Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review, 61 FR 6812, 6814 (February 22, 1996), where the Department disregarded the highest dumping margin as best information available because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin.

We examined individual transactions made by AVISMA in the current review and the margins on those transactions in order to determine whether the rate of 21.71 percent was probative. We found a number of sales with dumping margins above the rate of 21.71 percent. Further, to support our corroboration, because SMW did not provide us with any information in this review, we examined individual transactions made by SMW during the immediately preceding (2005–06) administrative review period and the margins we determined for that review on those transactions in order to determine whether the rate of 21.71 percent was probative. See *Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Wire Rod from the Republic of Korea*, 72 FR 32074, 32076 (June 11, 2007) (unchanged in *Final Results of Antidumping Duty Administrative Review: Stainless Steel Wire Rod from the Republic of Korea*, 72 FR 46035 (August 16, 2007)). We found a number of sales by SMW during the 2005–06 period with dumping margins above the rate of 21.71 percent. Thus, the AFA rate is relevant as applied to SMW for this review because it falls within the range of AVISMA's transaction–specific margins in the current review period and SMW's own transaction–specific margins in the prior review period. See *Ta Chen Stainless Steel Pipe, Inc. vs. United States*, 298 F.3d 1330, 1340 (CAFC 2002) (''Because Commerce selected a dumping margin within the range of Ta Chen's actual sales data, we cannot conclude that Commerce overreached reality'.'') We have detailed the corroboration of the AFA rate in the memorandum from the analyst to Laurie Parkhill entitled ''The Use of Facts Available and Corroboration of Secondary Information for Solikamsk Magnesium Works in the 2006/2007 Administrative Review of the Antidumping Duty Order on Magnesium Metal from the Russian Federation,'' dated April 29, 2008. Therefore, we find this rate to be both reliable and relevant. As such, the Department finds this rate to be corroborated to the extent practicable consistent with section 776(c) of Act.

Date of Sale

AVISMA reported invoice date as the date of sale for all sales in both markets, consistent with our conclusions in earlier segments of the proceeding regarding both spot sales and sales made according to short and long–term agreements. See *Magnesium Metal from the Russian Federation: Notice of Final Determination of Sales at Less Than Fair Value*, 70 FR 9041 (February 24, 2005), and accompanying Issues and Decision Memorandum at Comment 14. After analyzing AVISMA's response and the sample sales documents it provided, we preliminarily determine that invoice date is the appropriate date of sale for all U.S. and home–market sales subject to analysis in this review.

Constructed Export Price

AVISMA identified all of its sales to the United States as constructed export–price (CEP) sales because the U.S. sales were made for the account of AVISMA by AVISMA's U.S. affiliate, VSMPO–Tirus, U.S., Inc. (Tirus US), to unaffiliated purchasers in the United States. AVISMA and Tirus US are affiliated because Tirus US is a wholly owned subsidiary of AVISMA. See section 771(33)(E) of the Act. U.S. sales to the first unaffiliated party were made in the United States by the U.S. affiliate, thus satisfying the legal requirements for CEP sales. See section 772(b) of the Act.

We calculated CEP based on the packed, C.I.F price to unaffiliated purchasers in the United States. In accordance with section 772(c)(2) of the Act, for AVISMA's CEP sales we made deductions from price for movement expenses and discounts, where appropriate. More specifically, we deducted early–payment discounts, expenses for Russian railway freight from plant to port, freight insurance, Russian brokerage, handling, and port charges, international freight and marine insurance, U.S. customs duties, U.S. brokerage, handling, and port charges, U.S. warehousing, and U.S. inland freight.

In accordance with section 772(d)(1) of the Act we deducted direct selling expenses and indirect selling expenses related to commercial activity in the United States. See also *SAA* at 823–824. Pursuant to sections 772(d)(3) and 772(f) of the Act, we made an adjustment for CEP profit allocated to expenses deducted under section 772(d)(1) 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 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. See the memorandum to the file entitled ''Administrative Review of the Antidumping Duty Order on Magnesium Metal from the Russian Federation - Preliminary Results Analysis Memorandum for PSC VSMPO–AVISMA Corporation'' (April 29, 2008) (AVISMA Analysis Memorandum).

Normal Value

Based on a comparison of the aggregate quantity of home–market and U.S. sales and absent any information that a particular market situation in the exporting country did not permit a proper comparison, we determined that the quantity of foreign like product sold by AVISMA 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. AVISMA's quantity of sales in its home market was greater than five percent of its sales to the U.S. market. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we considered basing normal value 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 CEP sales.

In accordance with section 771(16)(A) of the Act, we considered all products produced by AVISMA 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 considered comparing U.S. sales to the most similar foreign like product on the basis of the product characteristics we determined to be the most appropriate for purposes of product matching.

Cost–of-Production Analysis

We disregarded below–cost sales in accordance with section 773(b) of the Act in the last completed review with respect to AVISMA. See *Magnesium Metal from the Russian Federation: Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 25740, 25743 (May 7, 2007) (unchanged in *Magnesium Metal from the Russian Federation: Final Results of Antidumping Duty Administrative Review*, 72 FR 51791 (September 11, 2007)). 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 AVISMA in the home market.

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 home–market selling, G&A expenses, interest expense, and packing expenses.

In the original investigation and in the first administrative review, AVISMA's cost–reporting methodology was based on its normal books and records which treated magnesium metal as the main product and chlorine gas as a by–product of the manufacturing process. On January 1, 2007, during the current POR, AVISMA changed its normal books and records to treat magnesium as the by–product of its titanium operations (chlorine is consumed in titanium production). Raw magnesium and chlorine gas are produced jointly during the third major processing step, the electrolysis stage (*i.e.*, the split–off point), during which both products become identifiable physically. In its cost responses, AVISMA claims that its acquisition by VSMPO, a titanium producer, has shifted its operational focus to the production of titanium sponge. Accordingly, it contends, the company determined that the production of chlorine gas, which is a significant and a critical input in the production of titanium sponge, is the main goal of production while magnesium production is now treated as a secondary product. As such, AVISMA claims, it has reduced its magnesium production to the minimum levels needed to support the titanium- sponge production based on its new operational focus. AVISMA claims that the reduction in magnesium production is apparent through its reduction or cessation of its practice of burning off excess chlorine gas.

In its original cost response AVISMA included only the costs from the further–processing steps (*i.e.*, only the costs incurred after the split–off point and none of the joint costs of the electrolysis and prior stages) in its COP database.

In its supplemental cost responses AVISMA provided alternative cost calculations in which it treated raw magnesium and chlorine gas as co–products. Under this approach, AVISMA calculated the value of chlorine at the split–off point by starting with sale prices of titanium sponge and then deducting the post–split-off titanium–processing costs; AVISMA calculated the value of raw magnesium at the split–off point using the starting sale prices of magnesium metal and then deducted the post–split-off costs of the magnesium–metal processing. AVISMA then allocated the joint costs under the net–realizable-value (NRV) methodology.

We requested that AVISMA provide another set of cost calculations based on a co–product methodology which relies

on the sales or market values of the joint products, *i.e.*, magnesium and chlorine gas (for the one-year period prior to the original period of investigation) instead of the sales values of the downstream products (*i.e.*, titanium sponge). AVISMA provided the requested cost data based on a co–product methodology of allocating joint costs in which it determined the value of chlorine gas (with certain adjustments) at the split–off point using the current market prices of liquid chlorine and the value of raw magnesium at the split–off point using the sales prices for magnesium products for the period predating the period of original investigation. AVISMA allocated joint costs based on the relationship between the NRV of raw magnesium and the NRV of chlorine gas.

We analyzed the data on the record to determine whether to judge the joint products appropriately as co–products or byproducts. In doing so, we conservatively considered the lowest per–metric-ton value of chlorine gas during the POR; for raw magnesium we considered the average per–metric-ton value for the period prior to the period of investigation (*i.e.*, prior to a period in which dumping was alleged). We evaluated the significance of each product at the split–off point and found that chlorine gas represented a significant percentage of the total value of all products at the split–off point. Consequently, based on our review of the combination of factors (the takeover of AVISMA by VSMPO, the cessation of the burning off of excess chlorine gas, and our examination of the relative values of the joint products in question), we have preliminarily determined that it is appropriate to treat chlorine gas and raw magnesium as co–products for purposes of allocating the common costs of these joint products for the entire cost- reporting period.

We have relied on AVISMA's cost database based on the co–product methodology of allocating joint costs for the preliminary results. We made certain adjustments to AVISMA's cost data - we revised the value of chlorine gas to reflect the company's purchases of liquid chlorine less freight costs and further–processing costs[2] and we increased the total pool of joint costs to be allocated to the co–products to include the costs associated with the disposal of excess chlorine gas.[3] For more details, see Memorandum to Neal M. Halper, Director, Office of Accounting, through Michael P. Martin, Lead Accountant, from Heidi K. Schriefer, Senior Accountant, entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - PSC VSMPO–AVISMA Corporation and VSMPO - Tirus US Inc,'' dated April 29, 2008.

After calculating the COP and in accordance with section 773(b)(1) of the Act, we tested whether home–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. We compared model–specific COPs to the reported home–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 do 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 were at prices less than the COP, we disregard 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 because, based on comparisons of prices to weighted–average COPs for the period of review, such 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. Based on this test, we disregarded all of AVISMA's home–market sales of magnesium metal because all such sales failed the cost test. See AVISMA Analysis Memorandum.

Constructed Value

Section 773(a)(4) of the Act provides that, where normal value cannot be based on comparison–market sales, normal value may be based on constructed value. Accordingly, because all home–market sales of magnesium metal failed the sales–below-cost test, we based normal value on constructed value.

Section 773(e) of the Act provides that constructed value shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general and administrative expenses (G&A), interest expense, profit, and U.S. packing costs. We calculated the cost of materials and fabrication based on the methodology described in the ''Cost- of–Production Analysis'' section above.

Because we disregarded all home–market sales as below–cost sales there are no sales made in the ordinary course of trade that we can use to calculate selling expenses and profit for constructed value pursuant to section 773(e)(2)(A) of the Act for AVISMA. In cases where actual data are not available to use in the calculation of selling expenses and profit, section 773(e)(2)(B)(i) of the Act provides the alternative of calculating such expenses using ''actual amounts incurred and realized by the specific exporter or producer in connection with the production and sale of merchandise that is in the same general category of products as the subject merchandise.'' This option is not available to us for these preliminary results because the record information, such as the financial information AVISMA submitted in this review, is not sufficiently detailed to permit a calculation of selling expenses and profit specific to subject merchandise or specific to a category of products in the same category as the subject merchandise.

Another alternative at section 773(e)(2)(B)(ii) of the Act suggests calculating the amounts in question using ''the weighted average of the actual amounts incurred and realized by exporters or producers that are subject to the investigation or review (other than the exporter or producer described in clause (i)) '' This alternative is not applicable in this review because AVISMA is the single cooperating respondent in this review and there are no other participating exporters/producers in this review.

Another statutory alternative of calculating the amounts in question provided at section 773(e)(2)(B)(iii) of the Act suggests ''any other reasonable method '' Therefore, pursuant to section 773(e)(2)(B)(iii) of the Act, we have calculated an estimate of direct and indirect selling expenses and profit for AVISMA in this review using the selling expenses and profit we calculated for AVISMA in the 2005–06 administrative review. See AVISMA Analysis Memorandum.

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

[2] AVISMA added the cost of evaporating liquid chlorine to the sales value of liquid chlorine in order to arrive at the estimated value of chlorine gas. In the absence of a cost value associated with liquefying chlorine gas, as a proxy, we subtracted the evaporation costs from the sales value of liquid chlorine to estimate the NRV of chlorine gas at the split-off point.

[3] AVISMA burned off excess chlorine gas for part of the POR. By November 2006, AVISMA was no longer producing excess chlorine gas.

differences. We made circumstance–of-sale adjustments by deducting home–market direct selling expenses from constructed value. Because we calculated constructed value at a level of trade different from the CEP level trade, we made a CEP–offset adjustment in accordance with sections 773(a)(7)(B) and 773(a)(8) of the Act. See ''Level of Trade'' section below.

Level Of Trade

In the U.S. market, AVISMA made CEP sales. In the case of CEP sales, we identified the level of trade based on the price after the deduction of expenses and profit under section 772(d) of the Act. Although the starting price for CEP sales was based on sales made by the affiliated reseller to unaffiliated customers through two channels of distribution, sales to end–users and distributors, AVISMA reported similar selling activities associated with all sales *to* the affiliated reseller (*i.e.*, at the CEP level of trade).

AVISMA reported one channel of distribution in the home market, sales to end–users. We found that this channel of distribution constitutes a single level of trade in the home market. When normal value is based on constructed value, the level of trade is that of the sales from which we derive selling, G&A, and profit figures.

To determine whether home–market sales were made 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. We found that there were significant differences between the selling activities associated with the CEP level of trade and those associated with the home–market level of trade and, thus, we found the CEP level of trade to be different from the home–market level of trade. Further, we found the CEP level of trade to be at a less advanced stage of distribution than the home–market level of trade.

Because AVISMA reported no home–market levels of trade that were equivalent to the CEP level of trade and because we determined that the CEP level of trade was at a less advanced stage than the home–market level of trade, we were unable to determine a level–of-trade adjustment based on the respondent's home–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 AVISMA's CEP sales, we made a CEP–offset adjustment in accordance with sections 773(a)(7)(B) and 773(a)(8) of the Act. The CEP–offset adjustment to constructed value was subject to the offset cap, calculated as the sum of home–market indirect selling expenses up to the amount of U.S. indirect selling expenses deducted from CEP (or, if there were no home–market commissions, the sum of U.S. indirect selling expenses and U.S. commissions). For a description of our level–of-trade analysis for these preliminary results, see AVISMA Analysis Memorandum.

Currency Conversion

For purposes of the preliminary results and 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. See also 19 CFR 351.415.

Preliminary Results of Review

As a result of this review, we preliminarily find that the following weighted–average
dumping margins exist:

Manufacturer/Exporter	Margin (percent)
PSC VSMPO–AVISMA Corporation	17.68
Solikamsk Magnesium Works	21.71

Disclosure and Public Comment

Pursuant to 19 CFR 351.224(b), 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 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Case briefs are due within 30 days after the date of publication of this notice. Rebuttal briefs, limited to arguments raised in case briefs, may be submitted no later than five days after the time limit for filing case briefs. Parties who submit arguments in this proceeding are requested to submit with the argument a statement of the issues, a brief summary of the argument, and a table of authorities. 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(c), 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. If requested, the hearing will be held two days after the date for submission of rebuttal briefs. Parties will be notified of the time and location. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case brief, rebuttal brief, or hearing no later than 120 days after publication of these preliminary results.

Assessment Rates

The Department shall determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries. In accordance with 19 CFR 351.212(b)(1), we have calculated an importer–specific assessment rate for AVISMA reflecting these preliminary results of review. We divided the total dumping margins for the reviewed sales by the total entered value of those reviewed sales for the importer. We will instruct CBP to assess the importer–specific rate uniformly on all entries of subject merchandise made by the relevant importer during the POR. See 19 CFR 351.212(b). The Department will issue instructions to CBP 15 days after the publication of the final results of review.

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 of Antidumping Duties*). This clarification will apply to entries of subject merchandise during the POR produced by AVISMA for which AVISMA did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries of AVISMA–produced merchandise 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 *Assessment of Antidumping Duties*.

Because we are relying on total AFA to establish SMW's dumping margin, we preliminarily determine to instruct CBP to apply a dumping margin of 21.71 percent to all entries of subject merchandise during the POR that were produced and/or exported by SMW.

Cash–Deposit Requirements

If these 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 the reviewed firms will be those established in the

final results of this review; 2) 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; 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 subject merchandise; and 4) if neither the exporter nor the manufacturer is a firm covered in this or any previous segment of the proceeding, the cash–deposit rate will continue to be the all–others rate established in the LTFV investigation, which is 21.01 percent. See *Antidumping Duty Order*. These cash–deposit requirements, when imposed, shall remain in effect until further notice.

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.

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: April 29, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9889 Filed 5–2–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–520–803)

Polyethylene Terephthalate Film, Sheet, and Strip from the United Arab Emirates: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from the United Arab Emirates (UAE) is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733 of the Tariff Act of 1930, as amended (the Act). The estimated margins of sales at LTFV are listed in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination. Pursuant to a request from an interested party, we are postponing our final determination to not later than 135 days after publication of the preliminary determination.

EFFECTIVE DATE: May 5, 2008.

FOR FURTHER INFORMATION CONTACT: Douglas Kirby or Myrna Lobo, 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) 482–3782 or (202) 482–2371, respectively.

SUPPLEMENTARY INFORMATION:

Background

This investigation was initiated on October 18, 2007. *See Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations (Notice of Initiation)*, 72 FR 60801 (October 26, 2007). On November 13, 2007, the United States International Trade Commission (ITC) preliminarily determined that, pursuant to section 733(a) of the Act, there is a reasonable indication that an industry in the United States is materially injured by reason of imports of PET Film from Brazil, China, Thailand, and the United Arab Emirates. *See Investigation Nos. 731–TA–1131–1134 (Preliminary): Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates*, 72 FR 67756 (November 13, 2007) (*ITC Preliminary Determination*). The domestic interested parties are DuPont Teijin Films, Mitsubishi Polyester Film of America, Inc., SKC, Inc. and Toray Plastics (America), Inc. (collectively, the petitioners). The respondent for this investigation is Flex Middle East FZE (Flex FZE).

On November 27, 2007, the Department issued its sections A through E questionnaires to Flex FZE. On December 19, 2007, Flex FZE submitted its section A response. On January 18, 2008, Flex FZE submitted its sections B and C responses. On January 23, 2008, the petitioners made a timely request pursuant to section 733(c)(1) of the Act and 19 CFR 351.205(e) for a postponement of the preliminary determinations with respect to Brazil, the People's Republic of China, Thailand, and the United Arab Emirates. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 7710 (February 11, 2008).

On February 6, 2008, the petitioners submitted a timely allegation that home market sales were being made at prices below the cost of production and requested that the Department initiate a sales–below-cost investigation of Flex FZE pursuant to 19 CFR 351.301(d)(2)(B). On February 8, 2008, the Department issued its first supplemental questionnaire to Flex FZE. On February 27, 2008, Flex FZE submitted its response to the first supplemental questionnaire. On February 29, 2008, the Department issued a second supplemental questionnaire to Flex FZE. On February 29, 2008, the Department initiated a sales–below-cost–investigation of Flex FZE and requested that Flex FZE respond to the section D questionnaire. *See* Memorandum to Barbara E. Tillman, Director, AD/CVD Operations, Office 6, from the Team, *Petitioners' Allegation of Sales Below the Cost of Production for Flex Middle East FZE (Flex FZE)* (*Cost Allegation Memorandum*) (February 29, 2008), on file in the Central Record Unit, room 1117 of the main Department of Commerce building (CRU). On March 12, 2008, Flex FZE submitted its response to the second supplemental questionnaire. On March 14, 2008, Flex FZE submitted its response to the section D questionnaire.

On March 21, 2008, the petitioners submitted an allegation pursuant to 19 CFR 351.301(d)(5) that certain U.S. sales by Flex FZE were targeted for dumping. On March 27, 2008, the Department issued a supplemental questionnaire for sections A through D to Flex FZE. On March 31, 2008, Flex FZE submitted comments regarding the petitioners' targeted dumping allegation. On April 1, 2008, the Department issued a letter to Flex FZE to clarify the March 27, 2008, supplemental questionnaire. On April 8, 2008, Flex FZE submitted its response to the sections A through D supplemental questionnaire. On April 11, 2008, the Department issued questions to the petitioners regarding its targeted dumping allegation. On April

21, 2008, the petitioners submitted a response to the Department's questions regarding the targeted dumping allegation.

Respondent Identification

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. Section 777A(c)(2) of the Act gives the Department discretion, when faced with a large number of producers/exporters, to limit its examination to a reasonable number of such companies if it is not practicable to examine all companies. Where it is not practicable to examine all known producers/exporters of subject merchandise, this provision permits the Department to investigate either (A) a sample of exporters, producers, or types of products that is statistically valid based on the information available to the Department at the time of selection or (B) producers/exporters accounting for the largest volume of the merchandise under investigation that can reasonably be examined. In the petition, the petitioners identified one potential producer and exporter of PET Film in the UAE: Flex FZE.

Based on our analysis of import data obtained from U.S. Customs and Border Protection (CBP), we selected one producer/exporter, Flex FZE, as the mandatory respondent in this investigation because this company is the only producer of UAE subject merchandise exported to the United States during the POI. Therefore, the Department determined that Flex FZE is the sole producer and exporter of PET Film in the UAE. For a complete analysis of our respondent selection, *see Memorandum to Barbara E. Tillman, Director, Office 6, ''Antidumping Duty Investigation on PET Film from the UAE - Respondent Selection*,'' November 27, 2007 (*Respondent Selection Memorandum*). Therefore, pursuant to section 777A(c)(2)(B) of the Act, the Department has calculated an individual dumping margin for the selected producer/exporter.

Postponement of Final Determination

Section 735(a)(2)(A) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Section 351.210(e)(2) of the Department's regulations requires that exporters requesting postponement of the final determination must also request an extension of the provisional measures referred to in section 733(d) of the Act from a four–month period to not more than six months. We received a request to postpone the final determination and extend the provisional measures from Flex FZE on April 18, 2008. Because this preliminary determination is affirmative, the request for postponement was made by an exporter who accounts for a significant proportion of exports of the subject merchandise, and there is no compelling reason to deny the respondent's request, we have extended the deadline for issuance of the final determination until the 135th day after the date of publication of this preliminary determination in the **Federal Register** and we will extend the provisional measures to not more than six months.

Period of Investigation

The period of investigation (POI) is July 1, 2006 through June 30, 2007.

Scope of the Investigation

The products covered by this investigation are all gauges of raw, pre–treated, or primed PET Film, whether extruded or co–extruded. Excluded are metallized films and other finished films that have had at least one of its surfaces modified by the application of a performance–enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and purposes of Customs and Border Protection (CBP), our written description of the scope of this investigation is dispositive.

Party Comments on Scope and Model Matching

On October 30, 2007, the Department asked all parties in this investigation and in the concurrent antidumping duty investigations of PET Film from Brazil, the People's Republic of China (PRC), and Thailand, for comments on the appropriate product characteristics for defining individual products. In addition, the Department requested all parties in this investigation and in the concurrent antidumping duty investigations of PET Film from Brazil, the PRC, and Thailand, to submit comments on the appropriate model matching methodology. *See* Letter from Robert James, Program Manager, AD/CVD Enforcement 7, dated October 7, 2007. We received comments from petitioners on November 6, 2007, requesting that the Department include the grade of PET Film in the model match criteria. Additionally, petitioners requested that the Department include a field identifying whether or not the PET Film has been coextruded. In its November 29, 2007 questionnaire, the Department requested that respondent report the grade of the PET Film, but did not request a field identifying whether the PET Film is coextruded. For purposes of this preliminary determination, the Department has determined that it is unnecessary to change the proposed product characteristics and model matching methodology with regard to coextrusion. For purposes of distinguishing subject merchandise, the Department will take into account the grade of the PET Film, as advocated by petitioners in their submission.

On November 15, 2007, Avery Dennison requested that the Department find that ''release liner,'' a PET film product treated on one or both sides with a specially–cured silicon coating, is outside the scope of these investigations. Petitioners filed a submission objecting to Avery Dennison's request on November 29, 2007; petitioners re–submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date. Petitioners argue that release liner is ''PET film that clearly falls within the scope of these investigations.'' *See* Petitioners' December 14, 2007 submission at 1 and 2. Avery Dennison responded to the petitioners comments on February 1, 2008.

In accordance with section 731(i) of the Act, we have determined that the descriptions of the merchandise contained in the petition and in our *Notice of Initiation* support the conclusion that release film is of the same class or kind of merchandise covered by the scope of the proposed antidumping duty order. *See also generally* 19 CFR 351.225(k)(1). The product descriptions in the petition and in the Department's *Notice of Initiation* specifically exclude finished films with a ''performance enhancing resinous or inorganic layer of more than 0.00001 inches thick.'' There is nothing in the proposed scope language of either the petition or our *Notice of Initiation* that excludes products bearing a performance enhancing resinous or inorganic layer of less than 0.00001

inches from the scope of the order. Moreover, there is no language in either the proposed scope language of the petition or our *Notice of Initiation* that limits the scope of the investigation to ''PET base film,'' (*i.e.*, PET film prior to the application of in–line coatings), as Avery Dennison suggests. In addition, release liner shares the chemical composition of PET film described in the proposed scope of the petition and *Notice of Initiation*.

One of the purposes of a less than fair value investigation is to decide the merchandise specifically covered by the scope of the ultimate antidumping duty order. Based upon the foregoing, we have preliminarily determined that release film is of the same class or kind of merchandise as that described in the petition and in the Department's *Notice of Initiation*. Thus, we have determined that release film is covered by the scope of the antidumping investigation of PET film from Thailand. For a full discussion of this issue, *see* the memorandum titled ''Antidumping Duty Investigations on Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates,'' from Micheal J. Heaney, Senior Case Analyst, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated April 25, 2008, issued concurrently with this notice.

We have relied on four criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: grade, specification, thickness, and surface treatment. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade 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 above.

Targeted Dumping

On March 21, 2008, the petitioners submitted a timely allegation that Flex FZE engaged in targeted dumping during the POI in accordance with 19 CFR 351.301(d)(5). On March 31, 2008, Flex FZE submitted comments in response to the petitioners' targeted dumping allegation. On April 11, 2008, the Department requested additional information from the petitioners regarding their targeted dumping allegation. The additional information requested was filed on April 21, 2008. Therefore, there was not sufficient time to analyze the information and fully consider the petitioners' allegation for this preliminary determination. The Department will issue a decision regarding targeted dumping for this investigation following the issuance of the preliminary determination, and will allow parties to comment on it prior to the final determination.

Date of Sale

It is the Department's practice to use invoice date as the date of sale. The regulations further provide that the Department may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale (*i.e.*, price and quantity). *See* 19 CFR 351.401(i); *see also Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–92 (CIT 2001). Flex FZE reported invoice date as its date of sale for both its home market and U.S. market sales during the POI.

Based on Flex FZE's questionnaire responses, we preliminarily determine that invoice date is the appropriate date of sale in both markets. Flex FZE stated in its February 26, 2008 supplemental questionnaire response that the company reported invoice date as the date of sale because that is the date when the price and quantity are finally set. In addition, Flex FZE stated that changes between the order date and the invoice date can occur, but records of these types of changes are not maintained electronically. In its February 26, 2008 supplemental response, Flex FZE provided two examples for home market sales where changes occurred between order date and invoice date. We issued a supplemental questionnaire on March 31, 2008 requesting Flex FZE to provide information indicating changes between order date and invoice date for U.S. sales during the POI. Flex FZE responded that no such changes had occurred in the U.S. market during the POI.

On April 25, 2008, the Department issued an additional supplemental questionnaire for further information regarding date of sale in the U.S. market. We intend to continue evaluating whether invoice date appropriately represents the date on which the material terms of sale are set in the U.S. market.

Fair Value Comparisons

To determine whether sales of PET Film from the UAE were made in the United States at less than normal value (NV), we compared the constructed export price (CEP) to the NV, as described in the ''Constructed Export Price'' and ''Normal Value'' sections below. In accordance with section 777A(d)(1) of the Act, we calculated the weighted–average prices for NV and compared these to the weighted–average of CEP.

Constructed Export Price

For the price to the United States, pursuant to section 772(b) of the Act, we used CEP because all sales to the United States were made by Flex America Inc., Flex FZE's U.S. subsidiary, and Flex America Inc. made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. We based CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale. *See* Flex FZE's December 19, 2007 section A questionnaire response.

The Department calculated Flex FZE'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 19 CFR 351.401(e). 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 in the UAE associated with economic activities in the United States. We also deducted CEP profit in accordance with section 772(d)(3) of the Act.

Normal Value

Home Market Viability and Comparison Market Selection

To determine whether there was a sufficient volume of sales in the home market (*i.e.*, the UAE) to serve as a viable basis for calculating NV, we compared the respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B)(II) of the Act, because the aggregate quantity (or, if quantity is not appropriate, value) of the foreign like product sold by Flex FZE in its home market is five percent or more of the aggregate quantity of the subject merchandise sold in the United States or for export to the United States, we determined that Flex FZE's sales of PET Film in the UAE were sufficient to find

the home market viable for comparison purposes. Accordingly, we calculated NV for Flex FZE based on sales prices to UAE customers.

Cost of Production Analysis

Based on our analysis of the petitioners' allegation, we found that there were reasonable grounds to believe or suspect that Flex FZE's sales of PET Film in the home market were made at prices below its COP. Accordingly, pursuant to section 773(b) of the Tariff Act, we initiated a sales–below-cost investigation to determine whether Flex FZE had sales that were made at prices below its respective COPs. *See Cost Allegation Memorandum*.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of Flex FZE's cost of materials and fabrication for the foreign like product, plus amounts for general and administrative expenses (''G&A''), and interest expenses. We relied on the COP information provided by Flex FZE in its questionnaire response except in the following instances.

Pursuant to section 773(f)(3) of the Act, we adjusted Flex FZE's reported cost of manufacturing to reflect the higher of the transfer price, the market price, and the affiliate's cost of production for PET chips purchased by Flex FZE from affiliated suppliers. In addition, pursuant to section 773(f)(2) of the Act, we adjusted Flex FZE's reported cost of manufacturing to reflect the higher of the transfer price and the market price for chemicals purchased by Flex FZE from affiliated suppliers.

We adjusted UFlex Limited's (UFlex Limited is Flex FZE's parent company) cost of goods sold used as the denominator in the calculation of the reported financial expense ratio to include depreciation expense and to exclude inter–unit purchases of raw materials which are eliminated on UFlex Limited's consolidated financial statements. For further details regarding these adjustments, *see* Memorandum from Ernest Gziryan to Neal M. Halper, Director, Office of Accounting, *''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination – Flex Middle East FZE''* (April 25, 2008).

2. Test of Comparison Market Sales Prices

On a product–specific basis, we compared the adjusted weighted–average COP to the home market sales prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether, within an extended period of time, such sales were made in substantial quantities, and whether such sales were not made at prices which permitted the recovery of all costs within a reasonable period of time. Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of the respondent's home market sales of a given model were at prices below the COP, we did not disregard any below–cost sales of that model because we determined that the below–cost sales were not made within an extended period of time in ''substantial quantities.'' Where 20 percent or more of the respondent's home market sales of a given model were at prices less than COP, we disregarded the below–cost sales because: (1) they 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 our comparison of prices to the weighted–average COPs for the POR, they were at prices which would not permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. During the POI, none of Flex UAE's home market sales were disregarded. For further information on the results of Flex UAE's cost test, *see* Memorandum to the File, from Douglas Kirby through Dana Mermelstein, *Analysis of Flex Middle East FZE*, dated April 25, 2008 (*Flex FZE Preliminary Analysis Memorandum*), on file in CRU.

Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on prices to unaffiliated customers in the UAE and matched U.S. sales to NV. We made deductions, where appropriate, for billing adjustments, discounts, rebates, movement expenses, and packing pursuant to section 773(a)(6)(B) of the Act. In addition, 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 19 CFR 351.411.

Level of Trade/Constructed Export Price Offset

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 level of trade (LOT) as the CEP transaction. The LOT in the comparison market is the LOT of the starting–price sales in the comparison market or, when NV is based on CV, the LOT of the sales from which we derive SG&A expenses and profit. For CEP sales, the LOT is that of the constructed sale from the exporter to the affiliated importer. *See* 19 CFR 351.412(c)(ii). *See also Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001).

To determine whether comparison market sales are at a different LOT from 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. If the comparison market sales are at a different LOT, 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 LOT of the export transaction, the Department makes an LOT adjustment in accordance with section 773(a)(7)(A) of the Act. For CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. We analyze whether different selling activities are performed, and whether any price differences (other than those for which other allowances are made under the Act) are shown to be wholly or partly due to a difference in LOT between the CEP and NV. Under section 773(a)(7)(A) of the Act, we make an upward or downward adjustment to NV for LOT if the difference in LOT involves the performance of different selling activities and is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined. Finally, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP, but the data available do not provide an appropriate basis to determine a LOT adjustment, we reduce NV by the amount of indirect selling expenses incurred in the foreign comparison market on sales of the foreign like product, but by no more than the amount of the indirect selling expenses incurred for CEP sales. *See* section 773(a)(7)(B) of the Act (the CEP offset provision).

In analyzing 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 Antidumping Duty Administrative Review*, 65 FR 30068 (May 10, 2000) and accompanying *Issues and Decision Memorandum* at Comment 6.

For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. *See Micron Technology Inc. v. United States*, 243 F. 3d 1301, 1314–1315 (Fed. Cir. 2001). We reviewed the selling functions and services performed by Flex FZE on CEP sales for three channels of distribution relating to the CEP LOT, as described by Flex FZE in its questionnaire responses, after these deductions. We have determined that the selling functions performed by Flex FZE on its U.S. sales (all of which are CEP sales) are similar because for all U.S. sales, Flex FZE provides almost no selling functions to its U.S. affiliate, Flex America, in support of the three channels of distribution. *See Flex UAE Preliminary Analysis Memorandum* for additional information regarding Flex FZE's selling functions for CEP sales. Accordingly, because the selling functions provided by Flex FZE for CEP sales are minimal, and the selling functions provided by Flex America to unaffiliated customers in the United States in all three channels of distribution are substantially similar and are provided at the same degree of service, we preliminarily determine that there is one CEP LOT in the U.S. market.

According to section 773(a)(7)(B) of the Act, a CEP offset is appropriate when the LOT in the home market is at a more advanced stage than the LOT of the CEP sales and there are no data available to determine the existence of a pattern of price difference. Flex UAE reported that it provided minimal selling functions and services for the one (CEP) LOT in the United States and that, therefore, the comparison market LOT is more advanced than the CEP LOT. Based on our analysis of the channels of distribution and selling functions performed by Flex FZE for sales in the comparison market and CEP sales in the U.S. market, we preliminarily find that the comparison market LOT is at a more advanced stage of distribution when compared to CEP sales because Flex FZE provides many more selling functions in the comparison market at a higher level of service as compared to the selling function it performs for its CEP sales. For a discussion of the proprietary information regarding Flex FZE's comparison market selling functions, *see Flex FZE Preliminary Analysis Memorandum*. Thus, we find that Flex FZE's comparison market sales are at a more advanced LOT than its CEP sales. In addition, we preliminarily determine there is only one LOT in the comparison market. Therefore, there are no data available to determine the existence of a pattern of price differences; nor do we have any other information that provides an appropriate basis for determining a LOT adjustment. Therefore, consistent with section 773(a)(7)(B) of the Act, we applied a CEP offset to NV for CEP comparisons.

To calculate the CEP offset, we deducted from NV the comparison market indirect selling expenses for comparison market sales that were compared to U.S. CEP sales. We limited the comparison market indirect selling expense deduction by the amount of the indirect selling expenses deducted in calculating CEP as required under section 772(d)(1)(D) of the Act.

Currency Conversions

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. *See Preliminary Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 68 FR 47049, 47055 (August 7, 2003), remaining unchanged in *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from France*, 68 FR 69379 (December 12, 2003). However, the Federal Reserve Bank does not track or publish exchange rates for the UAE dirham. Therefore, we made currency conversions from UAE dirhams to U.S. dollars based on the daily exchange rates from Factiva, a Dow Jones & Reuters Retrieval Service. Factiva publishes exchange rates for Monday through Friday only. We used the rate of exchange on the most recent Friday for conversion dates involving Saturday and Sunday, where necessary. *See e.g., Certain Steel Nails From the United Arab Emirates: Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 73 FR 3945 (January 23, 2008).

Verification

As provided in section 782(i) of the Act, we intend to verify the information upon which we will rely in making our final determination.

All–Others Rate

Pursuant to section 735(c)(5)(A) of the Act, the all others rate is equal to the weighted average of the dumping margins of each respondent investigated, excluding zero or *de minimis* margins and any margins determined exclusively under section 776 of the Act. Flex UAE is the only respondent in this investigation for which the Department has calculated a company–specific rate. Therefore, for purposes of determining the all–others rate and pursuant to section 735(c)(5)(A) of the Act, we are using the rate calculated for Flex UAE as the all–others rate, as referenced in the ''Preliminary Determination'' section below.

Preliminary Determination

The weighted–average dumping margins are as follows:

Producer/Exporter	Weighted–Average Margin
Flex Middle East FZE	2.45%
All Others	2.45%

Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of PET Film from the UAE that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average dumping margin, as indicated in the chart above, as follows: (1) the rate for the firm listed above will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be the all others rate listed above. These suspension of liquidation instructions will remain in effect until further notice.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC

will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of PET Film from the UAE materially injure, or threaten material injury to, the U.S. industry.

Public Comment

We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(I)(1) of the Act.

Dated: April 25, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9844 Filed 5–2–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–570–924)

Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 5, 2008.

SUMMARY: We preliminarily determine that polyethylene terephthalate film, sheet, and strip (''PET Film'') from the People's Republic of China (''PRC'') is being, or is likely to be, sold in the United States at less than fair value (''LTFV''), as provided in section 733 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins of sales at LTFV are shown in the ''Preliminary Determination'' section of this notice. Interested parties are invited to comment on this preliminary determination. We will make our final determination 75 days after the date of publication of this preliminary determination, pursuant to section 735(a) of the Act.

FOR FURTHER INFORMATION CONTACT: Erin Begnal or Toni Dach, 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) 482–1442 or 482–1655, respectively.

SUPPLEMENTAL INFORMATION:

Initiation

On September 28, 2007, the Department of Commerce (''Department'') received petitions on imports of PET Film from Brazil, the PRC, Thailand, and the United Arab Emirates (''UAE'') (''petitions'') filed in proper form by Dupont Teijin Films, Mitsubishi Polyester Film Inc., SKC Inc., and Toray Plastics (America) Inc., (collectively, ''Petitioners''). *See Antidumping Duty Petition: Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, Republic of China, Thailand, and the United Arab Emirates* (September 28, 2007). These investigations were initiated on October 18, 2007. *See Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 60801 (October 26, 2007) (''*Initiation Notice*'').

On November 13, 2007, the United States International Trade Commission (''ITC'') issued its affirmative preliminary determination that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Brazil, the PRC, Thailand, and UAE of PET Film. The ITC's determination was published in the **Federal Register** on November 30, 2007. *See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, Thailand, and the United Arab Emirates*, 72 FR 67756 (November 30, 2007); *see also Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, China, Thailand, and the United Arab Emirates: Investigation Nos. 731–TA–1131–1134* (*Preliminary*), Publication 3962 (November 2007).

Scope Comments

In accordance with the preamble to our regulations, we set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Initiation Notice. See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

On November 15, 2007, Avery Dennison requested that the Department find that ''release liner,'' a PET Film product treated on one or both sides with a specially–cured silicon coating of less than 0.00001 inches, is outside the scope of these investigations. Petitioners filed a submission objecting to Avery Dennison's request on November 29, 2007; Petitioners re–submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date. Petitioners argue that release liner is ''PET Film that clearly falls within the scope of these investigations.'' *See* Petitioners' December 14, 2007, submission at 1 and 2. Avery Dennison responded to Petitioners' comments on February 1, 2008.

In accordance with section 731(i) of the Act, we have determined that the descriptions of the merchandise

contained in the petition and in our *Initiation Notice* support the conclusion that release film is of the same class or kind of merchandise covered by the scope of the proposed antidumping duty order. *See also* generally 19 CFR 351.225(k)(1). The product descriptions in the petition and in the Department's *Initiation Notice* specifically exclude finished films with a ''performance enhancing resinous or inorganic layer of more than 0.00001 inches thick.'' There is nothing in the proposed scope language of either the petition or our Initiation Notice that excludes products bearing a performance enhancing resinous or inorganic layer of less than 0.00001 inches from the scope of the order. Moreover, there is no language in either the proposed scope language of the petition or our *Initiation Notice* that limits the scope of the investigation to ''PET base film,'' (*i.e.*, PET Film prior to the application of in–line coatings), as Avery Dennison suggests. In addition, release liner shares the chemical composition of PET Film described in the proposed scope of the petition and *Initiation Notice*.

One of the purposes of a less than fair value investigation is to decide the merchandise specifically covered by the scope of the ultimate antidumping duty order. Based upon the foregoing, we have preliminarily determined that release film is of the same class or kind of merchandise as that described in the petition and in the Department's *Initiation Notice*. Thus, we have determined that release film is covered by the scope of the AD investigation of PET Film from the PRC. For a full discussion of this issue, see the memorandum titled ''Antidumping Duty Investigations on Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates,'' from Michael J. Heaney, Senior Case Analyst, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated April 25, 2008, issued concurrently with this notice.

Respondent Selection

In the *Initiation Notice*, the Department stated that it expected to select respondents based on U.S. Customs and Border Protection (''CBP'') data of U.S. imports under Harmonized Tariff Schedule of the United States (''HTSUS'') number 3920.62.00.90. *See Initiation Notice*, 72 FR at 60806. On November 16, 2007, the Department placed the CBP information on the record of the investigation, and set aside a period for interested parties to submit comments on the CBP information. On November 30, 2007, the Department received comments on respondent selection from Petitioners and DuPont–Hongji Films Foshan Co., Ltd. (''DPHJ''), a manufacturer of subject merchandise. On December 3, 2007, and December 11, 2007, the Department received additional comments on respondent selection from Petitioners and DPHJ, respectively. On December 26, 2007, the Department selected Jiangyin Jinzhongda New Material Co., Ltd. (''JJ New Material'') and Dupont Teijin Films China Limited (''DTFC'') as mandatory respondents. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration through James C. Doyle, Director, AD/CVD Operations, Office 9 and Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9 from Erin Begnal, Senior International Trade Analyst, regarding, ''Selection of Respondents for the Antidumping Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China,'' dated December 26, 2007 (''Respondent Selection Memo'').

Separate Rates Applications

Between December 14, 2007, and December 19, 2007, the Department received separate rate applications from eight companies, including one mandatory respondent, DTFC, and its affiliated producers DPHJ and DuPont Teijin Hongji Films Ningbo Co., Ltd. (''DTHFN''). We issued deficiency questionnaires to Fuwei Films (Shandong) Co., Ltd. (''Fuwei Films''), Shaoxing Xiangyu Green Packing Co., Ltd. (''Green Packing''), Tianjin Wanhua Co., Ltd. (''Tianjin Wanhua''), Sichuan Dongfang Insulating Material Co., Ltd. (''Sichuan Dongfang''), and Shanghai Uchem Co., Ltd. (''Shanghai Uchem'') (collectively, ''SR Applicants'') on March 14, 2008. We issued an additional deficiency questionnaire to Tianjin Wanhua on March 21, 2008. We received a response from Tianjin Wanhua on March 21, 2008, March 28, 2008, and April 3, 2008. We also received responses from Fuwei Films, Green Packing, Sichuan Dongfang, and Shanghai Uchem on March 28, 2008.

Product Characteristics & Questionnaires

On October 30, 2007, the Department asked all parties in this investigation and in the concurrent antidumping duty investigations of PET Film from Brazil, Thailand, and the UAE, for comments on the appropriate product characteristics for defining individual products. In addition, the Department requested all parties in this investigation and in the concurrent antidumping duty investigations of PET Film Brazil, Thailand, and the UAE to submit comments on the appropriate model matching methodology. *See* Letter from Robert James, Program Manager, AD/CVD Enforcement 7, dated October 30, 2007. We received comments from Petitioners on November 6, 2007, requesting that the Department include the grade of PET Film in the model match criteria. Additionally, Petitioners requested that the Department include a field identifying whether the PET Film has been coextruded. In its December 27, 2007, questionnaire, the Department requested that the respondent report the grade of the PET Film, but did not request a field identifying whether the PET Film is coextruded. For purposes of this preliminary determination, the Department has determined that it is unnecessary to change the proposed product characteristics with regard to coextrusion. For purposes of distinguishing subject merchandise, the Department will take into account the grade of the PET Film, as advocated by Petitioners in their submission. The Department also received untimely filed comments from the BOPET Association of China Plastics Processing Industry Association on November 30, 2007.[1]

On December 27, 2007, the Department issued to DTFC and JJ New Material its sections A, C, D, and E questionnaire,[2] which included product characteristics used in the designation of CONNUMs and assigned to the merchandise under consideration. On January 22, 2008, the Department placed on the record of the investigation an email response from JJ New Material, indicating that it would not respond to the Department's questionnaire and would not participate in the investigation. Between January 11, 2008, and February 8, 2008, the Department received section A, C, and D questionnaire responses from the DuPont Group.[3] The DuPont Group was

[1] Because the BOPET Association of China Plastics Processing Industry Association's comments were submitted after the Department's deadline for submission, the Department was unable to consider these comments for defining product characteristics.

[2] 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 C requests a complete listing of U.S. sales. Section D requests information on factors of production, and Section E requests information on further manufacturing.

[3] Although the original questionnaire was issued to DTFC, which was selected as a mandatory respondent, we received questionnaire responses on

Continued

not required by the Department to submit a Section E response. The Department also issued supplemental questionnaires to the DuPont Group and received responses between February 25, 2008, and March 14, 2008. Petitioners submitted deficiency comments on the section C and D questionnaire responses of the DuPont Group on February 19, 2008.

Surrogate Country

On January 18, 2008, the Department determined that India, Indonesia, the Philippines, Colombia, and Thailand are countries comparable to the PRC in terms of economic development. *See* Letter to All Interested Parties, from Scot T. Fullerton, Program Manager, Office 9, AD/CVD Operations, regarding ''Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China ,'' dated January 18, 2008, attaching Memorandum to Scot T. Fullerton, Program Manager, Office 9, AD/CVD Operations, from Carole Showers, Acting Director, Office of Policy, regarding ''Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China (PRC): Request for List of Surrogate Countries,'' dated January 16, 2008.

On January 18, 2008, the Department requested comments on surrogate country selection from the interested parties in this investigation. Petitioners and the DuPont Group submitted surrogate country comments on February 1, 2008. No other interested parties commented on the selection of a surrogate country. For a detailed discussion of the selection of the surrogate country, *see* ''Surrogate Country'' section below.

Surrogate Value Comments

On March 19, 2008, Petitioners and the DuPont Group submitted comments on surrogate information with which to value the factors of production in this proceeding.

Targeted Dumping

On March 24, 2008, Petitioners filed an allegation of targeted dumping by the DuPont Group based on a pattern of export prices for comparable merchandise that differ significantly over periods of time. Petitioners also submitted the programming code they used in their targeted dumping allegations on March 24, 2008. On April 9, 2008, Petitioners submitted a letter withdrawing their targeted dumping allegation.

Postponement of Preliminary Determination

On January 23, 2008, Petitioners made a timely request, pursuant to section 733(c)(1)(A) of the Act, for a 50–day postponement of the preliminary determinations with respect to Brazil, the People's Republic of China, Thailand, and the United Arab Emirates. *See also* 19 CFR 351.205(e). The Department published a postponement of the preliminary determination on February 11, 2008. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 7710 (February 11, 2008).

Period of Investigation

The period of investigation (''POI'') is January 1, 2007, through June 30, 2007. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, September, 2007. *See* 19 CFR 351.204(b)(1).

Scope of Investigation

The products covered by this investigation are all gauges of raw, pre–treated, or primed PET Film, whether extruded or co–extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance–enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the HTSUS. While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Non–Market-Economy Country

For purposes of initiation, Petitioners submitted LTFV analyses for the PRC as a non–market economy (''NME''). *See Initiation Notice*, 73 FR at 60804. The Department considers the PRC to be a NME country. *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 30758, 30760 (June 4, 2007), unchanged in *Final Determination of Sales at Less Than Fair Value: Coated Free Sheet Paper from the People's Republic of China*, 72 FR 60632 (October 25, 2007). 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. No party has challenged the designation of the PRC as an NME country in this investigation. Therefore, we continue to treat the PRC as an NME country for purposes of this preliminary determination.

Surrogate Country

When the Department is investigating imports from an NME, section 773(c)(1) of the Act directs it to base normal value, 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 factors of production 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.

The Department's practice with respect to determining economic comparability is explained in *Policy Bulletin 04.1*,[4] which states that ''Per capita GNI[5] is the primary basis for determining economic comparability.'' The Department considers the five countries identified in its Surrogate Country List as ''equally comparable in terms of economic development.'' *See Policy Bulletin 04.1* at 2. Thus, we find that India, Indonesia, the Philippines, Colombia, and Thailand are all at an economic level of development equally comparable to that of the PRC.

Second, *Policy Bulletin 04.1* provides some guidance on identifying comparable merchandise and selecting a producer of comparable merchandise. Based on the data provided by Petitioners, we find that India is a producer of identical merchandise. *See* Petitioners' February 1, 2008, Comments on Surrogate Country at 2. Petitioners

behalf of DTFC, the exporter of the subject merchandise, and its affiliated producers, DPHJ and DTHFN, collectively the ''DuPont Group.''

[4] *See Policy Bulletin 04.1: Non-Market Economy Surrogate Country Selection Process*, (March 1, 2004), (''Policy Bulletin 04.1'') available at *http://ia.ita.doc.gov/policy/bull04-1.html*.

[5] GNI stands for gross national income, which comprises GDP plus net receipts of primary income (compensation of employees and property income) from nonresident sources. *See, e.g., http://www.finfacts.com/ biz10/ globalworldincomepercapita.htm*.

provided a list of Indian companies that produce PET Film. *Id.* Additionally, Petitioners submitted on the record of the investigation worldwide export data for PET Film, detailed in the *ITC Sunset Review of PET Film from India and Taiwan*, Prehearing Report to the Commission on Investigation Nos. 701–TA–415 and 731–TA–933 and 934 (Review) (January 29, 2008), Tables IV–8 and IV–10. *See* Petitioners' February 1, 2008, Comments on Surrogate Country at Attachment I. Because the Department was unable to find production data, we are relying on export data as a substitute for overall production data in this case. Of the five countries listed in the Surrogate Country List, only three countries, India, Thailand, and Indonesia are exporters of PET Film. *Id.* Consequently, at this time, the Philippines and Colombia are not being considered as appropriate surrogate countries for the PRC because they are not exporters of PET Film. Moreover, India, Thailand, and Indonesia are significant producers of identical merchandise. Specifically, during 2006 India exported 95,925,000 pounds of identical merchandise, while Thailand exported 75,447,000 pounds and Indonesia exported 67,723,000 pounds. *Id.*

With respect to data considerations in selecting a surrogate country, it is the Department's practice that, ''. . . if more than one country has survived the selection process to this point, the country with the best factors data is selected as the primary surrogate country.'' *See Policy Bulletin 04.1* at 4. Currently, the record contains surrogate factor value data, including possible surrogate financial statements, only from India.

Thus, the Department is preliminarily selecting India as the surrogate country on the basis that: (1) it is at a similar level of economic development to the PRC, pursuant to 773(c)(4) of the Act; (2) it is a significant producer of identical merchandise; and (3) we have reliable data from India that we can use to value the factors of production. Thus, we have calculated normal value using Indian prices when available and appropriate to value DTFC's affiliated producers' factors of production. *See* Memorandum to the File through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding ''Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Selection of Factor Values,'' dated April 25, 2008 (''Surrogate Value Memorandum'').

In accordance with 19 CFR 351.301(c)(3)(i), for the final determination in an antidumping investigation, interested parties may submit publicly available information to value the factors of production within 40 days after the date of publication of the preliminary determination.[6]

Affiliatiion

We preliminarily find the DuPont Group, comprised of DTFC, DPHJ, and DTHFN, to be affiliated parties within the meaning of section 771(33)(E) of the Act, due to common ownership. Specifically, DTFC is an owner of DPHJ, and DPHJ and DTFC are owners of DTHFN. *See* DTFC's December 17, 2007, Separate Rate Application at Exhibit 12, DPHJ's December 17, 2007, Separate Rate Application at 18; DTHFN's December 17, 2007, Separate Rate Application at 18, and the DuPont Group's January 11, 2008, Section A response at Exhibit A–3.

Separate Rates

Additionally, in the *Initiation Notice*, the Department notified parties of the application process by which exporters and producers may obtain separate–rate status in NME investigations. *See Initiation Notice*, 72 FR at 60804–60805. The process requires exporters and producers to submit a separate–rate status application. The Department's practice is discussed further in *Policy Bulletin 05.1: Separate–Rates Practice and Application of Combination Rates in Antidumping Investigations involving Non–Market Economy Countries*, (April 5, 2005), (''*Policy Bulletin 05.1*'') available at *http://ia.ita.doc.gov/policy/bull05–1.pdf*.[7] However, the standard for eligibility for a separate rate (which is whether a firm can demonstrate an absence of both *de jure* and *de facto* governmental control over its export activities) has not changed.

In proceedings involving NME countries, the Department has a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's policy to assign all exporters of merchandise subject to investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. As discussed fully below, DTFC and the SR Applicants have provided company–specific information to demonstrate that they operate independently of *de jure* and *de facto* government control, and therefore satisfy the standards for the assignment of a separate rate.

We have considered whether each PRC company that submitted a complete application is eligible for a separate rate. The Department's separate–rate test is not concerned, in general, with macroeconomic/border–type controls, *e.g.*, export licenses, quotas, and minimum export prices, particularly if these controls are imposed to prevent dumping. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from the People's Republic of China*, 63 FR 72255, 72256 (December 31, 1998). The test focuses, rather, on controls over the investment, pricing, and output decision–making process at the individual firm level. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61758 (November 19, 1997), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China: Final Results of Antidumping Duty Administrative Review*, 62 FR 61276, 61279 (November 17, 1997).

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each

[6] In accordance with 19 CFR 351.301(c)(1), for the final determination of this investigation, interested parties may submit factual information to rebut, clarify, or correct factual information submitted by an interested party less than ten days before, on, or after, the applicable deadline for submission of such factual information. However, the Department notes that 19 CFR 351.301(c)(1) permits new information only insofar as it rebuts, clarifies, or corrects information recently placed on the record. The Department generally will not accept the submission of additional, previously absent-from-the-record alternative surrogate value information pursuant to 19 CFR 351.301(c)(1). *See Glycine from the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Rescission, in Part*, 72 FR 58809 (October 17, 2007) and accompanying Issues and Decision Memorandum at Comment 2.

[7] The *Policy Bulletin 05.1*, states: ''{w}hile continuing the practice of assigning separate rates only to exporters, all separate rates that the Department will now assign in its NME investigations will be specific to those producers that supplied the exporter during the period of investigation. Note, however, that one rate is calculated for the exporter and all of the producers which supplied subject merchandise to it during the period of investigation. This practice applies both to mandatory respondents receiving an individually calculated separate rate as well as the pool of non-investigated firms receiving the weighted-average of the individually calculated rates. This practice is referred to as the application of ''combination rates'' because such rates apply to specific combinations of exporters and one or more producers. The cash-deposit rate assigned to an exporter will apply only to merchandise both exported by the firm in question *and* produced by a firm that supplied the exporter during the period of investigation.'' *See Policy Bulletin 05.1* at 6.

entity exporting the subject merchandise under a test arising from 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 further developed in *Notice of 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*''). In accordance with the separate–rates criteria, the Department assigns separate rates in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities. Additionally, if the Department determines that a company is wholly foreign–owned or located in a market economy, then a separate rate analysis is not necessary to determine whether it is independent from government control.

Wholly Foreign–Owned

In its separate rate application, DTFC[8] reported that it is wholly foreign–owned and incorporated in Hong Kong. Additionally, Fuwei Films, a separate rate applicant, reported that it is wholly foreign–owned in its separate–rate application. Therefore, because there is no PRC ownership of DTFC and Fuwei Films, *i.e.*, they are wholly foreign–owned, and we have no evidence indicating that they are under the control of the PRC, a separate rates analysis is not necessary to determine whether these companies are independent from government control. *See Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate from the People's Republic of China*, 64 FR 71104, 71104–05 (December 20, 1999) (where the respondent was wholly foreign–owned, and thus, qualified for a separate rate). Accordingly, we have preliminarily granted a separate rate to DTFC and Fuwei Films.

Joint Ventures Between Chinese and Foreign Companies or Wholly Chinese–owned Companies

Certain companies stated that they are either joint ventures between Chinese and foreign companies or are wholly Chinese–owned companies (collectively ''PRC SR Applicants''). Therefore, the Department must analyze whether these respondents can demonstrate the absence of both *de jure* and *de facto* governmental control over export activities.

1. Absence of De Jure Control

The Department considers the following *de jure* criteria in determining whether an individual company may be granted a separate rate: (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) other formal measures by the government decentralizing control of companies. *See Sparklers*, 56 FR at 20589.

The evidence provided by the PRC SR Applicants – Green Packing, Tianjin Wanhua, Sichuan Dongfang, and Shanghai Uchem – supports a preliminary finding of *de jure* absence of governmental control based on the following: 1) an absence of restrictive stipulations associated with the individual exporters' business and export licenses; 2) there are applicable legislative enactments decentralizing control of the companies; and 3) and there are formal measures by the government decentralizing control of companies. *See*, *e.g.*, Shanghai Uchem Co., Ltd.'s February 11, 2008, Separate Rate Application (''Shanghai Uchem SRA'') and Shaoxing Xiangyu Green Packing Co., Ltd.'s December 14, 2007, Separate Rate Application (''Green Packing SRA'').

2. Absence of De Facto Control

Typically the Department considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) whether the export prices are set by or are subject to the approval of a governmental agency; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses. *See Silicon Carbide*, 59 FR at 22586–87; *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, 22544–22545 (May 8, 1995). The Department has determined that an analysis of *de facto* control is critical in determining whether respondents are, in fact, subject to a degree of governmental control which would preclude the Department from assigning separate rates.

We determine that, for the PRC SR Applicants, the evidence on the record supports a preliminary finding of *de facto* absence of governmental control based on record statements and supporting documentation showing the following: 1) each exporter sets its own export prices independent of the government and without the approval of a government authority; 2) each exporter retains the proceeds from its sales and makes independent decisions regarding disposition of profits or financing of losses; 3) each exporter has the authority to negotiate and sign contracts and other agreements; and 4) each exporter has autonomy from the government regarding the selection of management. *See*, *e.g.*, Shanghai Uchem SRA and Green Packing SRA.

Therefore, the evidence placed on the record of this investigation by the PRC SR Applicants demonstrates an absence of *de jure* and *de facto* government control with respect to each exporter's exports of the merchandise under investigation, in accordance with the criteria identified in *Sparklers* and *Silicon Carbide*. *See* Memorandum to James C. Doyle, Director, AD/CVD Operations, Office 9, through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Toni Dach, International Trade Analyst, AD/CVD Operations, Office 9, regarding ''Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China: Separate Rates Memorandum,'' dated April 25, 2008. As a result, for the purposes of this preliminary determination, we have granted a separate company–specific rate to DTFC. Additionally, we have granted the SR Applicants a weighted–average margin for the purposes of this preliminary determination.

Application of Facts Available 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

[8] DTFC's affiliated producers, DPHJ and DTHFN, submitted timely separate applications. DPHJ and DTHFN stated that during the POI, they sold the subject merchandise through their affiliated Hong Kong exporter, DTFC, who then resold the merchandise to the United States through its U.S. affiliate. Additionally, both DPHJ and DTHFN stated that neither company exported directly to the U.S. affiliate or to any unaffiliated U.S. customers directly. Therefore, we are considering DTFC as the exporter of the subject merchandise, and we did not consider the separate rate status of DPHJ and DTHFN on an individual basis.

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 supplied if it can do so without undue difficulties.

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. Such an adverse inference may include reliance on information derived from the petition, the final determination, a previous administrative review, or other information placed on the record.[9]

Application of Total Adverse Facts Available

The PRC–Wide Entity

On December 26, 2007, the Department selected JJ New Material as one of the mandatory respondents, and on December 27, 2007, we issued our questionnaire to JJ New Material. On January 22, 2008, the Department placed on the record of the investigation an email response from JJ New Material, indicating that it would not respond to the Department's questionnaire and would not participate in the investigation. Thus, there is no information on the record of this investigation with respect to JJ New Material. Because JJ New Material was selected as a mandatory respondent and failed to demonstrate its eligibility for separate–rate status, it remains subject to this investigation as part of the PRC–wide entity.

Pursuant to sections 776(a)(2)(A), (B), and (C) of the Act, we find that it is appropriate to apply a dumping margin for the PRC–wide entity using the facts otherwise available on the record, because the PRC–wide entity (including JJ New Material) withheld information requested by the Department and impeded the proceeding. Specifically, the PRC–wide entity failed to respond to the Department's questionnaires and withheld or failed to provide information in a timely manner or in the form or manner requested by the Department. Thus, the PRC–wide entity impeded the proceeding. Additionally, because this party failed to cooperate by refusing to respond to our requests for information, we find an adverse inference is appropriate pursuant to section 776(b) of the Act for the PRC–wide entity.

Selection of the Adverse Facts Available Rate

Because the PRC–wide entity failed to respond to our request for information, it has failed to cooperate by not acting to the best of its ability. Therefore, the Department preliminarily finds that, in selecting from among the facts available, an adverse inference is appropriate pursuant to section 776(b) of the Act for the PRC–wide entity.

Further, section 776(b) of the Act authorizes the Department to use as adverse facts available (''AFA'') information derived from the petition, the final determination from the LTFV investigation, a previous administrative review, or any other information placed on the record. In selecting a rate for AFA, the Department selects a rate that is sufficiently adverse so ''as to effectuate the purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.''[10] Moreover, the Department will select a rate that ensures ''that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully.''[11]

It is the Department's practice to select, as AFA, the higher of the (a) highest margin alleged in the petition, or (b) the highest calculated rate of any respondent in the investigation.[12] As AFA, we have preliminarily assigned to the PRC–wide entity a rate of 76.72 percent, the highest calculated rate from the petition. The Department preliminarily determines that this information is the most appropriate from the available sources to effectuate the purposes of AFA. The Department's reliance on the petition rate to determine an AFA rate is subject to the requirement to corroborate secondary information.[13]

Corroboration

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 as facts available, it must, to the extent practicable, corroborate that information from independent sources reasonably at its disposal. Secondary information is described in the SAA as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning subject merchandise, or any previous review under section 751 concerning the subject merchandise.''[14] The SAA explains that to ''corroborate'' means simply that the Department will satisfy itself that the secondary information to be used has probative value. *Id.* The SAA also explains that independent sources used to corroborate may include, for example, published price lists, official import statistics and customs data, and information obtained from interested parties during the particular investigation. *Id.* To corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used.[15]

[9] *See* 19 CFR 351.308(c).

[10] *See Notice of Final Determination of Sales at Less than Fair Value: Static Random Access Memory Semiconductors From Taiwan*, 63 FR 8909, 8932 (February 23, 1998).

[11] *See* Statement of Administrative Action, accompanying the Uruguay Round Agreements Act, H.R. Doc. 103-316, vol. 1 (1994) (''*SAA*'') at 870. *See also Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the Seventh Administrative Review; Final Results of the Eleventh New Shipper Review*, 70 FR 69937, 69939 (November 18, 2005).

[12] *See, e.g., Final Determination of Sales at Less Than Fair Value: Sodium Hexametaphosphate From the People's Republic of China*, 73 FR 6479, 6481 (February 4, 2008).

[13] *See* the ''Corroboration'' section below.

[14] *See SAA* at 870.

[15] *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996), unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan: Final Results of Antidumping Duty Administrative Reviews and Termination in Part:*, 62 FR 11825 (March 13, 1997).

The AFA rate that the Department used is from the petition.[16] Petitioners' methodology for calculating the export price (''EP'') and NV in the petition is discussed in the initiation notice.[17] To corroborate the AFA margin we have selected, we compared that margin to the margins we found for the respondent. We found that the margin of 76.72 percent has probative value because it is in the range of margins we found for the cooperating mandatory respondent. Accordingly, we find that the rate of 76.72 percent is corroborated within the meaning of section 776(c) of the Act.

Consequently, we are applying 76.72 percent as the single antidumping rate to the PRC–wide entity. The PRC–wide rate applies to all entries of the merchandise under investigation except for entries from DTFC, and the separate rate applicants receiving a separate rate.

Margin for the Separate Rate Applicants

The Department received timely and complete separate rates applications from the SR Applicants, who are all exporters of PET Film from the PRC, which were not selected as mandatory respondents in this investigation. Through the evidence in their applications, these companies have demonstrated their eligibility for a separate rate, as discussed above. Consistent with the Department's practice, as the separate rate, we have established a margin for the SR Applicants based on the rate we calculated for the cooperating mandatory respondent, DTFC.[18] Companies receiving this rate are identified by name in the ''Suspension of Liquidation'' section of this notice.

Date of Sale

Section 351.401(i) of the Department's regulations states that, ''{i}n identifying the date of sale of the subject merchandise or foreign like product, the Secretary normally will use the date of invoice, as recorded in the exporter or producer's records kept in the ordinary course of business.'' However, the Secretary may use a date other than the date of invoice if the Secretary is satisfied that a different date better reflects the date on which the exporter or producer establishes the material terms of sale. *See* 19 CFR 351.401(i); *see also Allied Tube and Conduit Corp. v. United States*, 132 F. Supp. 2d 1087, 1090–1093 (CIT 2001) (''*Allied Tube*''). The date of sale is generally the date on which the parties agree upon all substantive terms of the sale. This normally includes the price, quantity, delivery terms and payment terms. In *Allied Tube*, the Court of International Trade (''CIT'') noted that a ''party seeking to establish a date of sale other than invoice date bears the burden of producing sufficient evidence to satisf{y}' the Department that a different date better reflects the date on which the exporter or producer establishes the material terms of sale.''' *Allied Tube* 132 F. Supp. 2d at 1090 (quoting 19 CFR 351.401(i)). In order to simplify the determination of date of sale for both the respondent and the Department and in accordance with 19 CFR 351.401(i), the date of sale will normally be the date of the invoice, as recorded in the exporter's or producer's records kept in the ordinary course of business, unless satisfactory evidence is presented that the exporter or producer establishes the material terms of sale on some other date. In other words, the date of the invoice is the presumptive date of sale, although this presumption may be overcome. For instance, in *Notice of Final Determination of Sales at Less Than Fair Value: Polyvinyl Alcohol from Taiwan*, 61 FR 14064, 14067 (March 29, 1996), the Department used the date of the purchase order as the date of sale because the terms of sale were established at that point.

After examining the questionnaire responses and the sales documentation that the DuPont Group placed on the record, we preliminarily determine that invoice date is the most appropriate date of sale for all CEP sales made by DTFC. *See* DuPont Group February 8, 2008, Section C questionnaire response at C–13 and March 17, 2008, supplemental response at C–3–4.

Fair Value Comparisons

To determine whether sales of PET Film to the United States by DTFC were made at less than fair value, we compared the constructed export price (''CEP'') to normal value (''NV''), as described in the ''U.S. Price,'' and ''Normal Value'' sections of this notice.

U.S. Price

In accordance with section 772(b) of the Act, we based the U.S. price on CEP because all of these sales were first made to unaffiliated U.S. customers by DTFC's U.S. affiliate. In accordance with section 772(c)(2)(A) of the Act, we calculated CEP by deducting, where applicable, the following expenses from the gross unit price charged to the first unaffiliated customer in the United States: foreign movement expenses, international freight, discounts, and United States movement expenses. Further, in accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), where appropriate, we deducted from the starting price the following selling expenses associated with economic activities occurring in the United States: credit expenses, direct selling expenses, and indirect selling expenses. In addition, pursuant to section 772(d)(3) of the Act, we made an adjustment to the starting price for CEP profit. Where foreign movement or international ocean freight was provided by PRC service providers or paid for in Renminbi (''RMB''), we valued these services using surrogate values (*see* ''Factors of Production'' section below for further discussion).

For a complete discussion of the calculations of the U.S. price for DTFC, *see* Memorandum to the File, through Scot T. Fullerton, Program Manager, AD/CVD Operations, Office 9, from Erin Begnal, Senior International Trade Analyst, AD/CVD Operations, Office 9, regarding ''Program Analysis for the Preliminary Determination of Antidumping Duty Investigation of Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China,'' dated April 25, 2008 (''*DTFC Analysis Memorandum*'').

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine the NV using a 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. The Department bases NV on the FOP because the presence of government controls on various aspects of non–market economies renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

Factor Valuation Methodology

In accordance with section 773(c) of the Act, we calculated NV based on FOP data reported by DTFC's affiliated producers for the POI. To calculate NV, we multiplied the reported per–unit factor–consumption rates by publicly available surrogate values (except as

[16] *See* ''Antidumping Duty Investigation Initiation Checklist: Polyethylene Terephthalate Film, Sheet, and Strip from the People's Republic of China'' at 9. *See also Initiation Notice*, 72 FR at 60806.

[17] *See Initiation Notice*, 72 FR at 60803-60804 and 60806.

[18] *See, e.g., Preliminary Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 71 FR 77373, 77377 (December 26, 2006), unchanged in *Final Determination of Sales at Less Than Fair Value and Partial Affirmative Determination of Critical Circumstances: Certain Polyester Staple Fiber from the People's Republic of China*, 72 FR 19690 (April 19, 2007).

discussed below). In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data. As appropriate, we adjusted input prices by including freight costs to make them delivered prices. Specifically, we added to the Indian surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory or the distance from the nearest seaport to the factory where appropriate. This adjustment is in accordance with the Court of Appeals for the Federal Circuit's decision in *Sigma Corp. v. United States*, 117 F. 3d 1401, 1407–1408 (Fed. Cir. 1997). A detailed description of all surrogate values used for DTFC can be found in the Surrogate Value Memorandum and DTFC Analysis Memorandum. Additionally, for detailed descriptions of all actual values used for market–economy inputs, see DTFC Analysis Memorandum dated April 25, 2008.

For this preliminary determination, in accordance with the Department's practice, we used data from the Indian Import Statistics and other publicly available Indian sources in order to calculate surrogate values for DTFC's affiliated producers' FOPs (direct materials, energy, and packing materials) and certain movement expenses. In selecting the best available information for valuing FOPs in accordance with section 773(c)(1) of the Act, the Department's practice is to select, to the extent practicable, surrogate values which are non–export average values, most contemporaneous with the POI, product–specific, and tax–exclusive. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value, Negative Preliminary Determination of Critical Circumstances and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From the Socialist Republic of Vietnam*, 69 FR 42672, 42682 (July 16, 2004), unchanged in *Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam*, 69 FR 71005 (December 8, 2004). The record shows that data in the Indian Import Statistics, as well as those from the other Indian sources, represent data that are contemporaneous with the POI, product–specific, and tax–exclusive. In those instances where we could not obtain publicly available information contemporaneous to the POI with which to value factors, we adjusted the surrogate values using, where appropriate, the Indian Wholesale Price Index (''WPI'') as published in the International Financial Statistics of the International Monetary Fund.

Furthermore, with regard to the Indian import–based surrogate values, we have disregarded import prices that we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non–industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7 (''*CTVs from the PRC*''). Further, guided by the legislative history, it is the Department's practice not to conduct a formal investigation to ensure that such prices are not subsidized. *See* H.R. Rep. 100–576 at 590 (1988). Rather, the Department bases its decision on information that is available to it at the time it makes its determination. Therefore, we have not used prices from these countries either in calculating the Indian import–based surrogate values or in calculating market–economy input values. In instances where a market–economy input was obtained solely from suppliers located in these countries, we used Indian import–based surrogate values to value the input. *See Final Determination of Sales at Less Than Fair Value: Certain Automotive Replacement Glass Windshields From The People's Republic of China*, 67 FR 6482 (February 12, 2002), and accompanying Issues and Decision Memorandum at Comment 1. Additionally, we disregarded prices from NME countries. Finally, imports that were labeled as originating from an ''unspecified'' country were excluded from the average value, because the Department could not be certain that they were not from either an NME country or a country with general export subsidies.

DTFC reported that its affiliated producers purchased an input, which was consumed in the production of the merchandise under review, from a market economy (''ME'') supplier and paid for in a market economy currency. Pursuant to 19 CFR 351.408(c)(1), the Department normally will accept input prices to value the factors of production of inputs purchased from a ME supplier and paid for in a ME currency. Furthermore, consistent with the Department's stated policy reflected in *Antidumping Methodologies: Market Economy Inputs, Expected Non–Market Economy Wages, Duty Drawback; and Request for Comments*, 71 FR 61716 (October 19, 2006) (''*2006 Statement of Policy*''), when a sufficient proportion of an input is purchased from a market economy, the Department will use the reported market economy prices to value that input when the item was paid for in a market economy currency. For purposes of the preliminary determination, we have determined that DTFC's reported market economy purchases accounted for a significant portion of total purchases of that input and, therefore, have used the reported purchase prices to value the input in the Department's normal value calculation. *See* DTFC Analysis Memorandum.

The Department used the Indian Import Statistics to value the raw material and packing material inputs that DTFC's affiliated producers used to produce the subject merchandise during the POI, except where listed below.

For direct, indirect, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression–based wage rate as reported on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in January 2007, http://ia.ita.doc.gov/wages/index.html. The source of these wage–rate data on the Import Administration's web site is the Yearbook of Labour Statistics 2004, ILO (Geneva: 2004), Chapter 5B: Wages in Manufacturing. Because this regression–based wage rate does not separate the labor rates into different skill levels or types of labor, we have applied the same wage rate to all skill levels and types of labor reported by the respondent. *See* Surrogate Value Memorandum.

To value factory overhead, selling, general, and administrative expenses, and profit, we averaged the audited 2006–2007 financial statements from Jindal Poly Films Limited, Garware Polyester Limited, Polyplex Corporation Ltd., and UFlex Limited, four large producers of PET Film in India.

For a detailed discussion of all surrogate values used for this preliminary determination, *see* Surrogate Values Memorandum.

Currency Conversion

We made currency conversions into U.S. dollars, in accordance with section 773A(a) of the Act, based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i)(1) of the Act, we intend to verify the information upon which we will rely in making our final determination.

Combination Rates

In the *Initiation Notice*, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See Initiation Notice*, 72 FR at 60806. This practice is described in *Policy Bulletin 05.1*, available at http://ia.ita.doc.gov/.

Preliminary Determination

The weighted–average dumping margins are as follows:

PET FILM FROM THE PRC

Exporter	Producer	Weighted–Average Margin
DuPont Teijin Films China Ltd.	DuPont Hongji Films Foshan Co. Ltd.	46.82%
DuPont Teijin Films China Ltd.	DuPont Teijin Hongji Films Ningbo Co., Ltd.	46.82%
Fuwei Films (Shandong) Co., Ltd.	Fuwei Films (Shandong) Co., Ltd.	46.82%
Shaoxing Xiangyu Green Packing Co., Ltd.	Shaoxing Xiangyu Green Packing Co., Ltd.	46.82%
Sichuan Dongfang Insulating Material Co., Ltd.	Sichuan Dongfang Insulating Material Co., Ltd.	46.82%
Tianjin Wanhua Co., Ltd.	Tianjin Wanhua Co., Ltd.	46.82%
Shanghai Uchem Co., Ltd.	Sichuan Dongfang Insulating Material Co., Ltd.	46.82%
Shanghai Uchem Co., Ltd.	Shanghai Xishu Electric Material Co., Ltd.	46.82%
PRC–wide (including Jiangyin Jinzhongda New Material Co., Ltd.)		76.72%

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Suspension of Liquidation

In accordance with section 733(d) of the Act, we will instruct CBP to suspend liquidation of all entries of PET Film from the PRC as described in the ''Scope of Investigation'' section, entered, or withdrawn from warehouse, for consumption from DTFC, Fuwei Films, Green Packing, Tianjin Wanhua, Sichuan Dongfang, Shanghai Uchem, and the PRC–wide entity on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average amount by which the normal value exceeds U.S. price, as indicated above.

International Trade Commission Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative determination of sales at less than fair value. Section 735(b)(2) of the Act requires the ITC to make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of PET Film, or sales (or the likelihood of sales) for importation, of the subject merchandise within 45 days of our final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Import Administration no later than seven days after the date of the final verification report is issued in this proceeding and rebuttal briefs limited to issues raised in case briefs no later than five days after the deadline date for case briefs (*see* 19 CFR 351.309(c)(i) and (d)). A list of authorities used and an executive summary of issues should accompany any briefs submitted to the Department. This summary should be limited to five pages total, including footnotes.

In accordance with section 774 of the Act, and if requested, we will hold a public hearing, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. If a request for a hearing is made, we intend to hold the hearing shortly after the deadline of submission of rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Ave, NW, Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

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, U.S. Department of Commerce, Room 1870, within 30 days after the date of publication of this notice. *See* 19 CFR 351.310(c). Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. At the hearing, each party may make an affirmative presentation only on issues raised in that party's case brief and may make rebuttal presentations only on arguments included in that party's rebuttal brief.

This determination is issued and published in accordance with sections 733(f) and 777(i)(1) of the Act.

Dated: April 25, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9845 Filed 5–2–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–351–841)

Notice of Preliminary Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: June 5, 2008.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that polyethylene terephthalate film, sheet, and strip (PET film) from Brazil is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Tariff Act). The estimated margins of sales at LTFV are listed in the ''Suspension of Liquidation'' section of this notice. Interested parties are invited to comment on this preliminary determination. Accordingly, we will make our final determination not later than 75 days after the signature date of

the preliminary determination, in accordance with 19 CFR 351.210.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, 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) 482–4475, or (202) 482–0649, respectively.

SUPPLEMENTARY INFORMATION:

Background:

On October 26, 2007, the Department initiated the antidumping duty investigation of PET film from Brazil. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 60801 (October 26, 2007) (*Initiation Notice*). The petitioners in this investigation are DuPont Teijin Films, Mitsubishi Polyester Film Inc., SKC Inc, and Toray Plastics (America) Inc.

On November 13, 2007, the United States International Trade Commission (the Commission) preliminarily determined there is a reasonable indication that imports of PET film from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates are materially injuring the U.S. industry and notified the Department of its findings. *See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, Thailand, and the United Arab Emirates Case Number. 731–TA–1131–1134 (Preliminary)*, 72 FR 67756, (November 30, 2007).

On November 15, 2007, Avery Dennison Fasson Roll North America (Avery Dennison) requested that the Department find that ''release liner,'' a PET film product treated on one or both sides with a specially–cured silicon coating of less than 0.00001 inches, is outside the scope of the investigations. Petitioners objected to Avery Dennison's request on November 29, 2007; petitioners re–submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date. Petitioners insist release liner is ''PET film that clearly falls within the scope of these investigations.'' *See* Petitioners' December 14, 2007 submission at 1 and 2. Avery Dennison responded to petitioners comments on February 1, 2008.

In accordance with section 731(1) of the Tariff Act, we have determined that the descriptions of the merchandise contained in the petition and the *Notice of Initiation* support the conclusion that release film is of the same class or kind of merchandise covered by the proposed antidumping order. *See* also generally 19 CFR 351.225(k)(1). The product descriptions in the petition and in the Department's *Notice of Initiation* specifically exclude finished films with a ''performance enhancing resinous or inorganic layer of more than 0.00001 inches thick.'' There is nothing in the proposed scope language of either the petition or our *Notice of Initiation* that excludes products bearing a performance enhancing resinous or inorganic layer of less than 0.00001 inches from the scope of the order. Moreover, there is no language in either the proposed scope language of the petition or our *Notice of Initiation* that limits the scope of the investigation to ''PET base film'' (*i.e.*, PET film prior to the application of in–line coatings), as Avery Dennison suggests. In addition, release liner shares the chemical composition of PET film described in the proposed scope of the petition and *Notice of Initiation*.

One of the purposes of a less than fair value investigation is to decide the class or kind of merchandise specifically covered by the scope of the ultimate antidumping order. Based upon the foregoing, we have preliminarily determined that release film is of the same class or kind of merchandise covered by the scope of the AD investigation of PET film from Brazil. Thus, we have determined that release film is covered by the scope of the AD investigation of PET film from Brazil. For a full discussion of this issue *see* the memorandum titled ''Antidumping Duty Investigations on Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates,'' from Michael J. Heaney, Senior Case Analyst, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated April 25, 2008, and issued concurrently with this notice.

On January 23, 2008, the petitioners requested the Department postpone the preliminary determination by 50 days. The Department published a notice of postponement on February 11, 2008, which set the new deadline for the preliminary determination at April 25, 2008. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determination of Antidumping Duty Investigations*, 73 FR 7710, (February 11, 2008).

In their September 28, 2007 petition, Petitioners identified one respondent, Terphane Ltda. (Brazil) (Terphane). *See* Antidumping Petition: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, People's Republic of China, Thailand, and the United Arab Emirates at 11. See also, October 18, 2007, Initiation Checklist: Polyethylene Terephthalate Film, Sheet, and Strip from Brazil (Initiation Checklist) at 2.

We issued our antidumping questionnaire to Terphane on November 21, 2007. Terphane submitted its section A response on December 21, 2007. The Department received Terphane's response to sections B, C, D, and E of our questionnaire on January 15, 2008. Our analysis of Terphane's section A, B, C, D, and E responses indicated numerous areas requiring additional information and clarification from Terphane. Those areas which required additional information and clarification from Terphane included: 1) whether affiliated parties provided any of the sales or production inputs used in the sale of PET film, 2) how the United States and home market sales totals shown in Terphane's response relate and reconcile to Terphane's financial statements, 3) the allocation method used by Terphane to derive U.S. ocean freight, warehousing, and U.S. inland freight charges, and 4) how Terphane derived the cost of production (COP) and constructed value (CV) data reported in its section D response. Petitioners provided comments on Terphane's response on February 19, 2008. On February 13, 2008, we sent a supplemental questionnaire to Terphane requesting additional information concerning its January 15, 2008 Section D Response. *See* the Department's February 13, 2008, letter to Terphane Ltda. (February 13 letter). On February 29, 2008, we issued a supplemental questionnaire covering Terphane's Section A, B, and C responses. *See* February 29, 2008 letter to Terphane Ltda., (February 29, 2008 letter). However, on March 26, 2008, Terphane submitted a letter indicating that it was withdrawing from the investigation, and thus would no longer participate or cooperate with the Department's request for information.

As a result, the home market and U.S. sales and cost data submitted by Terphane are incomplete, and as noted above, there are still significant deficiencies in Terphane's Section A, B, C, D and E responses that require additional information and/or clarification. In addition, we cannot verify Terphane's responses. Thus, because we are unable to trust the reliability of the information conveyed in Terphane's questionnaire responses, Terphane's questionnaire responses

cannot serve as the basis of Terphane's margin calculation. See Section below entitled, ''Use of Facts Otherwise Available.''

Period of Investigation:

The POI is July 1, 2006, to June 30, 2007.

Scope of Investigation:

The products covered in this investigation are all gauges of raw, pre–treated, or primed PET film, whether extruded or co–extruded. Excluded are metalized films and other finished films that have had at least one of their surfaces modified by the application of a performance–enhancing resinous or inorganic layer more than 0.00001 inches thick. Also, excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and Customs purposes, our written description of the scope of this investigation is dispositive.

Model Match:

In accordance with section 771(16) of the Tariff Act, all products produced by the respondent covered by the description in the *Scope of Investigation* section, above, and sold in Brazil during the POI are considered to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales.

The Department set aside a period of time for parties to raise issues regarding model match and encouraged all parties to submit comments concerning our model–match procedures. *See* October 30, 2008, letter from Robert James to All Interested Parties. We received model–match comments from petitioners on November 7, 2007. In their comments, petitioners suggested that we employ each of the model match criteria used in the Preliminary Results of the Changed Circumstances Review of PET film from Korea. *See, Polyethylene Terephthalate Film, Sheet, and Strip from the Republic of Korea; Preliminary Results of Changed Circumstances Review and Intent to Reinstate Kolon Industries Inc. in the Antidumping Order*, 72 FR 56048 (October 2, 2007) *Korean CC Review*. The model–match criteria employed in the *Korean CC Review* were: 1) specification, 2) thickness, 3) surface treatment, and 4) grade. *Id.*, at 56049. In addition to 1) specification, 2) thickness, 3) surface treatment, and 4) grade. In addition, petitioners suggested that we also consider a fifth criteron: whether the product has been extruded. See Petitioners November 7, 2007, letter at 1–2. For purposes of this preliminary determination, the Department has determined that it is unnecessary to change the proposed product characteristics and model matching methodology with regard to coextrusion. For purposes of distinguishing subject merchandise, the Department will take into account the grade of PET film, as advocated by petitioners in their submission.

Use of Facts Otherwise Available:

For the reasons discussed below, we determine the use of facts available is appropriate for the preliminary determination with respect to Terpane. As noted in the Supplementary Information section above, Terpahne has withdrawn from the proceeding. Additionally, Terphane failed to respond to our supplemental questionnaires of February 13, 2008 and February 29, 2008. As such, Terphane has withheld information necessary to calculate a margin for Terphane.

Section 776(a)(2) of the Tariff Act provides that if an interested party withholds information requested by the administering authority, fails to provide such information by the deadlines for submission of the information and in the form or manner requested, subject to subsections (c)(1) and (e) of section 782, significantly impedes a proceeding under this title, or provides such information but the information cannot be verified as provided in 782(i), the administering authority shall use, subject to section 782(d) of the Tariff Act, facts otherwise available in reaching the applicable determination. Section 782(d) of the Tariff Act provides that if the administering authority determines a response to a request for information does not comply with the request, the administering authority shall promptly inform the responding party and provide an opportunity to remedy the deficient submission. Section 782(e) of the Tariff Act states further the Department shall not decline to consider submitted information if 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; and (5) the information can be used without undue difficulties.

In this case, Terphane has withdrawn from the proceeding, and, thus, has determined not to participate further or to cooperate with the Department's requests for information. Moreover, as noted previously, the U.S., home market, and cost information provided by Terphane in its December 21, 2007, Section A response and its January 15, 2008, Section B, C, D, and E responses is substantially deficient. Terphane also failed to provide requested information by the established deadlines. Additionally, Terphane's decision to withdraw from this investigation has precluded the Department from conducting the verification of Terphane's questionnaire responses required by Section 782(i)(1) of the Act, and has demonstrated its failure to act to the best of its ability in responding to our requests for information.

Application of Adverse Inferences for Facts Available

Section 776(b) of the Act stipulates that if the Department finds an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information, the Department may use an inference adverse to the interests of that party in selecting from the facts otherwise available. *See Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (September 13, 2005); and *Notice of Final Determination of Sales at Less Than Fair Value and Final Negative Critical Circumstances: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 55792, 55794–96 (August 30, 2002). It is the Department's practice to apply adverse inferences to ensure that the party does not obtain a more favorable result by failing to cooperate than if it had cooperated fully. *See, e.g., Certain Polyester Staple Fiber From Korea: Final Results of the 2005–2006 Antidumping Duty Administrative Review*, 72 FR 69663 (December 10, 2007). Furthermore, ''affirmative evidence of bad faith on the part of a respondent is not required before the Department may make an adverse inference.'' *See Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27340 (May 19, 1997); *see also Nippon Steel Corp. v. United States*, 337 F.3d 1373, 1382–83 (Fed. Cir. 2003) (Nippon); and *Certain Polyester Staple Fiber from Korea: Final Results of the 2005-2006 Antidumping Duty Administrative Review*, 72 FR 69663 (December 10, 2007).

Although the Department provided Terphane with notice informing it of the consequences of its failure to fully

respond to sections A through E of our antidumping questionnaire, Terphane has withdrawn from this investigation and has failed to provide complete responses to the Department's requests for information. This constitutes a failure on the part of Terphane to cooperate to the best of its ability to comply with a request for information by the Department, pursuant to section 776(b) of the Tariff Act. Moreover, because Terphane has withdrawn from the proceeding and did not provide the information requested in our supplemental questionnaires of February 13, 2008, and February 29, 2008, the requirements of section 782(e) of the Tariff Act have not been satisfied.

Based on the above, the Department has preliminarily determined that Terphane has failed to cooperate to the best of its ability and, therefore, in selecting from among the facts otherwise available, an adverse inference is warranted. *See, e.g., Notice of Final Determination of Sales at Less than Fair Value: Circular Seamless Stainless Steel Hollow Products from Japan*, 65 FR 42985 (July 12, 2000) (the Department applied total adverse facts available (AFA) where the respondent failed to respond to the antidumping questionnaire).

Selection and Corroboration of Information Used as Facts Available

Where the Department applies AFA because a respondent failed to cooperate by not acting to the best of its ability to comply with a request for information, section 776(b) of the Tariff Act authorizes the Department to rely on information derived from the petition, a final determination, a previous administrative review, or other information placed on the record. *See* also 19 CFR 351.308(c) and the SAA at 829–831. It is the Department's practice to use the highest rate from the petition in an investigation when a respondent fails to act to the best of its ability to provide the necessary information and there are no other respondents. *See, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Purified Carboxymethylcellulose From Finland, 69 FR 77216 (December 27, 2004) (unchanged in Notice of Final Determination of Sales at Less Than Fair Value: Purified Carboxymethylcellulose From Finland*, 70 FR 28279 (May 17, 2005)). Therefore, because an adverse inference is warranted, we have assigned to Terphane the highest margin alleged in the petition, as referenced in the *Initiation Notice*, or 44.36 percent. *See Initiation Notice* at 60806.

When using facts otherwise available, section 776(c) of the Tariff Act provides that where the Department relies on secondary information (such as the petition) rather than information obtained in the course of an investigation, it must corroborate, to the extent practicable, information from independent sources that are reasonably at its disposal.

The SAA clarifies that ''corroborate'' means the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. As stated in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, from Japan; Preliminary Results of Antidumping Duty Administrative Reviews and Partial Termination of Administrative Reviews*, 61 FR 57391, 57392 (November 6, 1996) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From Japan, and Tapered Roller Bearings, Four Inches or Less in Outside Diameter, and Components Thereof, From Japan; Final Results of Antidumping Duty Administrative Reviews and Termination in Part*, 62 FR 11825, 11843 (March 13, 1997)), to corroborate secondary information, the Department will examine, to the extent practicable, the reliability and relevance of the information used. The Department's regulations state 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 the SAA at 870.

For the purposes of this investigation, to the extent appropriate information was available, we reviewed the adequacy and accuracy of the information in the petition during our pre–initiation analysis and for purposes of this preliminary determination. *See Initiation Checklist* at pages 8 through 10. *See also Initiation Notice* at 60803 and 60806. We examined evidence supporting the calculations in the petition to determine the probative value of the margins alleged in the petition for use as AFA for purposes of this preliminary determination. During our pre–initiation analysis we examined the key elements of the constructed export price (CEP) and normal–value calculations used in the petition to derive margins. During our pre–initiation analysis we also examined information from various independent sources provided either in the petition or in supplements to the petition that corroborates key elements of the constructed export price and normal–value calculations used in the petition to derive estimated margins. *Id.*

The petitioners calculated CEP from information regarding a representative sale of 48–gauge packaging film by Terphane to an unaffiliated customer in the United States. See Initiation Checklist at 6. Petitioners made deductions from CEP for a distributor mark up and for international freight and insurance, U.S. customs duties, inland freight from the U.S. warehouse to the U.S. customer and credit expenses. *Id.* at 6–7. We adjusted petitioner's calculation of the distributor mark–up to exclude certain charges covered in separate deductions from U.S. price (*i.e.* inland freight from the U.S. port to the distribution warehouse and brokerage charges. *Id.* at 6.

The petitioners based normal value on a sale of 48 gauge packaging film by Terphane to a customer in Brazil during the POI. *Id.* at 8. Petitioners made an adjustment to home market price for credit. *Id.* Based upon the Department's deficiency questions, petitioners revised their calculation of normal value by eliminating deductions from the home market price for advertising, slitting, and material losses. *Id.*

Petitioners also alleged that Terphane made sales below the home market below its cost of production. *Id.* Petitioners calculated constructed value (CV) as the cost of manufacture (COM); selling general and administrative expenses (SG&A) expenses; packing expenses, and profit. In calculating CV, we recalculated factory overhead based upon the financial statements of a Brazilian thermoplastic resin producer. (The resins manufactured by this Brazilian producer include PET film.) *Id.* at 9. Based upon the methodology described above, the estimated dumping margins for Brazil ranged from 13.08 percent (price–to price margin) to 44.36 percent (price–to CV margin). *Id.* at 10.

Based on our examination of the aforementioned information, we consider the petitioners' calculation of normal value based both upon a sale of 48 gauge packaging film by Terphane to a customer in Brazil and constructed value to be corroborated. Therefore, because we confirmed the accuracy and validity of the information underlying the derivation of margins in the petition by examining source documents as well as publicly available information, we preliminarily determine the margins in the petition are reliable for the purposes of this investigation.

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 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'') because the margin was based on another company's uncharacteristic business expense that resulted in an unusually high dumping margin.

In the pre–initiation stage of this investigation, we confirmed the calculation of margins in the Petition (*e.g.*, prices, expenses, adjustments, *etc.*) reflects the commercial practices of the particular industry during the period of investigation. *See* Memorandum to the File, ''Telephone Call to Market Research Firm,'' dated July 17, 2007. No information has been presented in the investigation that calls into question the relevance of this information. As such, and as established during our pre–initiation analysis, we preliminarily determine the highest margin in the petition was based on adequate and accurate information. Accordingly, we consider that highest margin corroborated for purposes of this preliminary determination. Therefore, it is relevant as the adverse facts-available rate for Terphane.

Similar to our position in *Polyethylene Retail Carrier Bags from Thailand: Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53405 (September 11, 2006) (unchanged in *Polyethylene Retail Carrier Bags from Thailand: Final Results of Antidumping Duty Administrative Review*, 72 FR 1982 (January 17, 2007)), because this is the first proceeding involving this company, we find there are no probative alternatives to the margins alleged in the petition. Accordingly, by using information that was corroborated in the pre-initiation stage of this investigation and preliminarily determining it to be relevant for the uncooperative respondents in this investigation, we have corroborated the adverse facts–available rate ''to the extent practicable.'' *See* section 776(c) of the Tariff Act, 19 CFR 351.308(d). Therefore, we find that the estimated margin of 44.36 percent in the *Initiation Notice* has probative value. Consequently, with respect to Terphane, we have applied the margin rate of 44.36 percent, the highest estimated dumping margin set forth in the notice of initiation. *See Initiation* Notice at 60806.

All–Others Rate:

Section 735(c)(5)(B) of the Tariff Act provides that, where the estimated weighted–averaged dumping margins established for all exporters and producers individually investigated are zero or *de minimis* or are determined entirely under section 776 of the Tariff Act, the Department may use any reasonable method to establish the estimated all–others rate for exporters and producers not individually investigated. Our recent practice under these circumstances has been to assign as the all-others rate the simple average of the margins in the petition. *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Glycine from Japan*, 72 FR 67271, 67272 (November 28, 2007). *See also Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Retail Carrier Bags From Malaysia*, 69 FR 34128, 34129 (June 18, 2004). Consistent with our practice we used the rates in the petition that were considered in the Department's initiation to calculate a simple average to be assigned as the all–others rate. That simple average, 28.72 percent, is derived from the following petition rates: 13.08 (price to price margin) and 44.36 percent (price to CV margin). This 28.72 percent rate will be applied to all Brazilian producers and exporters of PET film other than Terphane.

Preliminary Determination:

We preliminarily determine the following weighted–average dumping margins exist for the period April 1, 2006, through March 31, 2007:

Producer/Exporter	Margin
Terphane	44.36
All Others	28.72

Suspension of Liquidation:

In accordance with section 733(d)(2) of the Tariff Act, we are directing U.S. Customs and Border Protection (CBP) to suspend liquidation of all entries of PET film from Brazil that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. We will instruct CBP to require a cash deposit or the posting of a bond equal to the weighted–average margins, as indicated in the chart above, as follows: (1) the rate for Terphane will be the rate we have determined in this preliminary determination; (2) if the exporter is not a firm identified in this investigation, but the producer is, the rate will be the rate established for the producer of the subject merchandise; (3) the rate for all other producers or exporters will be 28.72 percent. These suspension–of-liquidation instructions will remain in effect until further notice.

Commission Notification:

In accordance with section 733(f) of the Tariff Act, we have notified the Commission of the Department's preliminary affirmative determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of PET film from Brazil are materially injuring, or threaten material injury to, the U.S. industry.

Public Comment:

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than fifty days after the date of publication of this notice. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, limited to the issues raised in the case briefs, must be filed within five days from the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette.

In accordance with section 774 of the Tariff Act, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, the hearing will be scheduled two days after the deadline for submitting rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined. Parties should confirm by telephone the date, time, and location of the hearing 48 hours before the scheduled date. Interested parties who wish to request a hearing, or to participate in a hearing if one is

requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, APO/Dockets, Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. See 19 CFR 351.310(c). At the hearing oral presentations will be limited to issues raised in the briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Tariff Act.

Dated: April 25, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9846 Filed 5–2–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(A–549–825)

Notice of Preliminary Determination of Sales at Not Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip from Thailand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 5, 2008.

SUMMARY: The U.S. Department of Commerce (the Department) preliminarily determines that polyethylene terephthalate film, sheet, and strip (PET Film) from Thailand is not being, nor likely to be, sold in the United States at less than fair value (LTFV), as provided in section 733(b) of the Tariff Act of 1930, as amended (the Act). Interested parties are invited to comment on this preliminary determination.

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Angelica Mendoza, 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) 482–0193, or (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 17, 2007, the Department initiated the antidumping duty investigation of PET Film from Thailand. *See Polyethylene Terephthalate Film, Sheet, and Strip (PET Film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Initiation of Antidumping Duty Investigations*, 72 FR 60801 (October 26, 2007) (*Notice of Initiation*).

The Department set aside a period of time for parties to raise issues regarding product coverage and encouraged all parties to submit comments within 20 calendar days of publication of the *Notice of Initiation. See Notice of Initiation.* On November 15, 2007, Avery Dennison Fasson Roll North America (Avery Dennison) requested that the Department find ''release liner,'' a PET film product treated on one or both sides with a specially–cured silicon coating, is outside the scope of these investigations. Petitioners (DuPont Teijin Films, Mitsubishi Polyester Film of America, Inc., SKC, Inc. and Toray Plastics (America), Inc. (collectively, petitioners)) objected to Avery Dennison's request on November 29, 2007; petitioners re–submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date.

On August 28, 2007, the United States International Trade Commission (ITC) preliminarily determined that there is a reasonable indication that imports of PET Film from Brazil, China, Thailand, and the United Arab Emirates (UAE) are materially injuring the U.S. industry and the ITC notified the Department of its findings. *See Polyethylene Terephthalate Film, Sheet, and Strip From Brazil, China, Thailand, and the United Arab Emirates Case Number: 731–TA–1131–1134*, 72 FR 67756, (November 30, 2007) (*Preliminary ITC Determination*).

Polyplex (Thailand) Public Company Ltd. (Polyplex Thailand) and Polyplex (Americas) Inc. (PA) (collectively Polyplex) was issued an antidumping duty questionnaire on November 29, 2007. The Department received the Section A response from Polyplex on January 4, 2008 (AQR), and received the Sections B and C responses from Polyplex on January 18, 2008 (BCQR).

On January 23, 2008, petitioners requested that the Department postpone the preliminary determination by 50 days. The Department published an extension notice on February 11, 2008, which set the new deadline for the preliminary determination at April 25, 2008. *See Polyethylene Terephthalate Film, Sheet, and Strip from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates: Postponement of Preliminary Determinations of Antidumping Duty Investigations*, 73 FR 7710 (February 11, 2008).

Petitioners filed comments on Polyplex's Sections A, B and C responses on February 13, 2008. The Department issued a supplemental questionnaire regarding Polyplex's Sections A, B and C responses on February 19, 2008. Also on February 19, 2008, based on a timely allegation filed by petitioners on February 6, 2008, the Department initiated a sales–below-cost investigation for Polyplex, finding reasonable grounds to believe that Polyplex made comparison market sales of PET Film at prices below its cost of production (COP). *See* ''Sales Below Cost of Production'' section below for further information. Consequently, the Department requested that Polyplex respond to Section D of the Department's antidumping duty questionnaire. We received Polyplex's Section D response on March 11, 2008.

On March 12, 2008, Polyplex filed its response to the Department's supplemental questionnaire regarding Sections A–C (SABCQR). Additionally on March 12, 2008, a U.S. customer of Polyplex filed a response to Department questions regarding this U.S. customer's relationship with Polyplex Thailand.

On March 14, 2008, the Department requested a SAS version of Polyplex's comparison market, United States market, and cost datasets submitted with its SABCQR, which Polyplex did on March 17, 2008. *See* the Department's March 17, 2008, Memorandum to the File.

On March 21, 2008, petitioners filed a targeted dumping allegation on sales made by Polyplex in the U.S., and also filed section D comments. On March 24, 2008, the Department issued a section D supplemental questionnaire to Polyplex. On March 31, 2008, Polyplex filed comments on petitioners' targeted dumping allegation.

The Department issued a second supplemental questionnaire to Polyplex concerning the company's Sections A, B, C, and D responses and information regarding the value added to PET Film by one U.S. customer on April 1, 2008.

On April 7, 2008, the Department issued a memorandum in which it determined that Polyplex Thailand was affiliated with one of Polyplex Thailand's U.S. customers that produces non–subject merchandise using PET Film. *See* Affiliation section below. Because the name of this customer is proprietary we will refer to it here as ''Company A.''

In light of our finding of affiliation, on April 7, 2008, the Department requested that Polyplex Thailand and Company A respond to Section E (Cost of Further Manufacture or Assembly Performed in the United States) of the Department's November 29, 2007, antidumping questionnaire in regard to the PET Film

further processed by the U.S. customer after importation.

On April 8, 2008, Polyplex submitted its section D supplemental questionnaire response.

Upon review of petitioners' targeted dumping allegation, we determined that further information was needed in order to adequately analyze petitioners' allegation, and issued a targeted dumping supplemental questionnaire to petitioners on April 8, 2008.

On April 9, 2008, Polyplex submitted a letter requesting that the Department not collect section E information because the value added by Company A substantially exceeds the value of the PET Film input. Because the application of the Department's standard further manufacture methodology pursuant to section 772(d)(2) of the Act would be particularly burdensome based on the special facts of this case, Polyplex requested that the Department apply section 772(e) of the Act (the ''special rule'') and base the margin for Company A sales on prices of other subject merchandise sold by Polyplex Thailand and PA to companies other than Company A pursuant to the special rule.

On April 11, 2008, Polyplex filed its second supplemental questionnaire response regarding Sections A, B, C, and D. Petitioners filed their targeted dumping supplemental questionnaire response on April 16, 2008. Also on April 16, 2008, petitioners submitted comments regarding the Department's methodology for calculating the margin for sales made to Company A in light of the Department's affiliation determination. Because there was a need for supplemental information regarding this allegation, we did not have sufficient time to analyze the targeted dumping allegation prior to the April 25, 2008, deadline for issuance of the preliminary determination. We intend to address this allegation in full upon receipt of a satisfactory response by petitioners to our request for additional information. Similarly, we will address in full petitioner's April 16, 2008, comments regarding the Department's methodology for calculating the margin for sales made to Company A in light of the Department's affiliation determination for the final determination.

April 17, 2008, the Department telephoned counsel to Polyplex and requested that Polyplex resubmit its April 11, 2008, section D supplemental cost dataset to correct certain errors identified by the Department. Polyplex resubmitted its cost database on April 18, 2008, correcting the errors in question. *See* the Department's April 17, 2008, Memorandum to the File.

Also on April 17, 2008, Polyplex submitted a request for extension in filing its response to Section E (Cost of Further Manufacture or Assembly Performed in the United States) of the Department's November 29, 2007, antidumping questionnaire from April 21, 20008, until May 2, 2008. The Department granted this request on April 21, 2008. *See* the Department's April 18, 2008, Memorandum to the File.

On April 23, 2008, the Department requested a SAS version of the cost dataset Polyplex originally submitted with its April 18, 2008, section D supplemental questionnaire response. Polyplex submitted a SAS version of its cost dataset on April 24, 2008. *See* the Department's April 23, 2008, Memorandum to the File.

Period of Investigation

The period of period of investigation (POI) is July 1, 2006, to June 30, 2007.

Scope of Investigation

The products covered by this investigation are all gauges of raw, pre–treated, or primed PET Film, whether extruded or co–extruded. Excluded are metallized films and other finished films that have had at least one of their surfaces modified by the application of a performance–enhancing resinous or inorganic layer more than 0.00001 inches thick. Also excluded is Roller transport cleaning film which has at least one of its surfaces modified by application of 0.5 micrometers of SBR latex. Tracing and drafting film is also excluded. PET Film is classifiable under subheading 3920.62.00.90 of the Harmonized Tariff Schedule of the United States (HTSUS). While HTSUS subheadings are provided for convenience and purposes of Customs and Border Protection (CBP), our written description of the scope of this investigation is dispositive.

Party Comments on Scope and Model Matching

On October 30, 2007, the Department asked all parties in this investigation and in the concurrent antidumping duty investigations of PET Film from Brazil, the People's Republic of China (PRC), and the United Arab Emirates (UAE), for comments on the appropriate product characteristics for defining individual products. In addition, the Department requested that all parties in this investigation and in the concurrent antidumping duty investigations of PET Film Brazil, the PRC, and the UAE submit comments on the appropriate model matching methodology. See Letter from Robert James, Program Manager, AD/CVD Enforcement 7, dated October 7, 2007.

We received comments from petitioners on November 6, 2008, requesting that the Department include the grade of PET Film in the model match criteria. Additionally, petitioners requested that the Department include a field identifying whether PET Film has been coextruded. In its November 29, 2007, questionnaire, the Department requested that Polyplex report the grade of the PET Film, but did not request a field identifying whether the PET Film is coextruded. For purposes of this preliminary determination, the Department has determined that it is unnecessary to change the proposed product characteristics and model matching methodology with regard to coextrusion. For purposes of distinguishing subject merchandise, the Department will take into account the grade of the PET Film, as advocated by petitioners in their submission.

On November 15, 2007, Avery Dennison requested that the Department find that ''release liner,'' a PET Film product treated on one or both sides with a specially–cured silicon coating, is outside the scope of these investigations. Petitioners filed a submission objecting to Avery Dennison's request on November 29, 2007; petitioners re–submitted their objections with amended bracketing on December 14, 2007, and the document was accepted for the record on that date. Petitioners argue that release liner is ''PET film that clearly falls within the scope of these investigations.'' *See* Petitioners' December 14, 2007, submission at 1 and 2. Avery Dennison responded to petitioners' comments on February 1, 2008.

In accordance with section 731(i) of the Act, we have determined that the descriptions of the merchandise contained in the petition and in our *Notice of Initiation* support the conclusion that release film is of the same class or kind of merchandise covered by the scope of the proposed antidumping duty order. *See* also generally 19 CFR 351.225(k)(1). The product descriptions in the petition and in the Department's *Notice of Initiation* specifically exclude finished films with a ''performance enhancing resinous or inorganic layer of more than 0.00001 inches thick.'' There is nothing in the proposed scope language of either the petition or our *Notice of Initiation* that excludes products bearing a performance enhancing resinous or inorganic layer of less than 0.00001 inches from the scope of the order. Moreover, there is no language in either the proposed scope language of the

petition or our *Notice of Initiation* that limits the scope of the investigation to ''PET base film,'' (*i.e.*, PET film prior to the application of in–line coatings), as Avery Dennison suggests. In addition, release liner shares the chemical composition of PET film described in the proposed scope of the petition and *Notice of Initiation*.

One of the purposes of a less than fair value investigation is to decide the merchandise specifically covered by the scope of the ultimate antidumping duty order. Based upon the foregoing, we have preliminarily determined that release film is of the same class or kind of merchandise as that described in the Petition and in the Department's *Notice of Initiation*. Thus, we have determined that release film is covered by the scope of the antidumping investigation of PET film from Thailand. For a full discussion of this issue, see the memorandum titled ''Antidumping Duty Investigations on Polyethylene Terephthalate Film, Sheet, and Strip (PET film) from Brazil, the People's Republic of China, Thailand, and the United Arab Emirates,'' from Micheal J. Heaney, Senior Case Analyst, to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, dated April 25, 2008, issued concurrently with this notice.

We have relied on four criteria to match U.S. sales of subject merchandise to comparison market sales of the foreign like product: grade, specification, thickness, and surface treatment. Where there were no sales of identical merchandise in the comparison market made in the ordinary course of trade 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 above.

Respondent Selection

Section 777A(c)(1) of the Act directs the Department to calculate individual dumping margins for each known exporter and producer of the subject merchandise. The Department determined that there were six Thai producers/exporters of PET Film that made shipments to the United States during the POI. In the Department's *Respondent Selection Memorandum*, we determined that, in light of resource constraints, it would not be practicable in this investigation for us to examine all known producers or exporters of subject merchandise. *See* the November 28, 2007, Memorandum to Deputy Assistant Secretary Stephen J. Claeys, titled ''Antidumping Duty Investigation on Polyethylene Terephthalate Film, Sheet, and Strip from Thailand (A–549–825): Respondent Selection'' (*Respondent Selection Memorandum*). Further, no party to this case argued for the examination of all companies. Accordingly, pursuant to section 777A(c)(2) of the Act, the Department determined that it would investigate only a limited number of exporters or producers. Section 77A(c)(2) allows the Department to select respondents either through a sample of exporters, producers, or types of products that is statistically valid based on the information available at the time of selection, or by using the exporters and producers accounting for the largest volume of the subject merchandise that can reasonably be examined.

In selecting the respondents in this investigation, we determined that it is most appropriate to choose the largest producers/exporters in order to cover the greatest possible export volume, pursuant to section 777A(c)(2)(1)(B) of the Act. The petition and the Department identified a single producer and exporter of PET Film from Thailand, Polyplex, who accounted for the overwhelming majority of subject merchandise exported to the United States during the POI. Therefore, we concluded that we would review only Polyplex's exports for purposes of this investigation. *See* Respondent Selection Memorandum.

Date of Sale

Section 351.401(i) of the Department's regulations states the Department normally will use the date of invoice, as recorded in the producer's or exporter's records kept in the ordinary course of business, as the date of sale. The regulations further provide that the Department may use a date other than the date of the invoice if the Secretary is satisfied that a different date better reflects the date on which the material terms of sale are established. *See* 19 CFR 351.401(i).

Polyplex reported the sales invoice date as the date of sale for all sales in the comparison market and the U.S. market, except for export price (EP) sales, in which case Polyplex reported the bill of lading date as the date of sale. *See* BCQR at B–17 and C–16, respectively.

In the comparison market, Polyplex stated on pages 27–29 of its AQR that changes in price and quantity sometimes occur after the production order is issued up until the time of shipment, and that changes did occur during the POI. *See* page 10 of Polyplex's April 11, 2008, submission. Additionally, Polyplex stated that for accounting purposes it recognizes a sale based on date of invoice.

For EP sales, Polyplex stated on page 6 of its April 11, 2008, submission that changes occur between the order date and invoice. Additionally, on page 29 of its AQR, Polyplex stated that it issues a commercial invoice to the Thai Customs Department for export approval and to obtain an export entry number. Polyplex stated that it does not book the sale in its accounting system until the goods are cleared by Thai customs (*i.e.*, Polyplex's receipt of the bill of lading from Thai customs).

For constructed export price (CEP) sales, Polyplex provided invoice date as the sale date based on the invoice from its U.S. affiliate to the first unaffiliated U.S. customer or to Company A discussed below in the section *U.S. Sales of Further–Manufactured PET Film. See* page C–16 of Polyplex's sections BCQR. Similar to the explanation for EP sales, Polyplex stated on page 6 of its April 11, 2008, submission that changes occur between the order date and invoice.

Based on the responses of Polyplex, and having no record evidence that would indicate otherwise, we preliminarily determine that the sales invoice date is the appropriate date of sale for the comparison market and for CEP sales in the U.S. market, while bill of lading date is the appropriate date of sale for Polyplex's EP sales. For a further discussion of this issue, *see* Polyplex Preliminary Analysis Memo.

Affiliation

On April 7, 2008, the Department determined that Polyplex Thailand and PA are affiliated with Company A pursuant to section 771(33)(F) of the Act and 19 CFR 351.102(b). Due to the proprietary nature of this issue, *see* the Department's Memorandum to the File, from Stephen Bailey, Case Analyst, and Angelica Mendoza, Program Manager, through Richard Weible, Director Office 7, dated April 7, 2008 (''Affiliation Memo'').

Due to this affiliation, as noted above, on April 7, 2008, the Department requested that Polyplex Thailand and Company A respond to Section E (Cost of Further Manufacture or Assembly Performed in the United States) of the Department's November 29, 2007, questionnaire for purchases of PET Film from Polyplex Thailand and PA.

U.S. Sales of Further–Manufactured PET Film

During the POI, Polyplex Thailand and its U.S. affiliate, PA, sold PET Film to Company A, which further manufactured the PET Film into non–subject merchandise. Company A did not sell PET Film directly acquired from

Polyplex Thailand or PA in the United States during the POI, but rather further processed the material and resold it as non–subject merchandise. After examining the various relationships between Polyplex Thailand, PA, and Company A, the Department, as noted above, has preliminarily determined that Company A is affiliated with both Polyplex Thailand and PA. As noted above, on April 9, 2008, Polyplex requested that the Department not collect section E information because the value added by Company A substantially exceeds the value of the PET Film input. Polyplex requested that the Department instead apply the special rule found at section 772(e) of the Act and base the margin for Company A's sales of further–manufactured goods on prices of other subject merchandise sold by Polyplex Thailand and PA to companies other than Company A.

Polyplex's Argument For Use of the Special Rule

Polyplex notes that the special rule, as discussed in section 772(e) of the Act, provides that where the subject merchandise is imported by a person affiliated with the exporter or producer and the value added in the United States by the affiliated person is likely to exceed substantially the value of the subject merchandise, the Department shall determine the CEP for such merchandise using either 1) the price of identical subject merchandise sold by the exporter or producer to an unaffiliated person, or 2) the price of other subject merchandise sold by the exporter or producer to an unaffiliated person. If there is not a sufficient quantity of sales to provide a reasonable basis for comparison under subsets 1 or 2, or the Department determines that neither of the prices described is appropriate, then the CEP may be determined on any other reasonable basis.[1]

In arguing for application of the special rule, Polyplex notes the following: 1) Company A's value–added substantially exceeds the value of the PET Film input, 2) Company A made a ''very substantial'' number of further manufactured products that contained PET Film (both subject and non–subject merchandise) during the POI, 3) Company A sold further manufactured products containing PET Film in a very high number of invoices and line items during the POI, 4) Company A manufactured the further manufactured product at many plants in the United States, and 5) Company A purchased PET Film from many producers during the POI, and cannot identify the producer of the PET Film used in the further manufactured product based on its books and records. *See* page 4 of Polyplex's April 9, 2008, submission. Polyplex maintains that all of the above–mentioned facts were present in the Indian investigation of PET Film, of which Polyplex Corporation, Ltd. (India) (Polyplex India), was the respondent. *See Notice of Final Determination of Sales at Less Than Fair Value: Polyethylene Terephthalate Film, Sheet, and Strip From India*, 67 FR 34899 (May 16, 2002) and accompanying Issues and Decision Memorandum at Comment 13 (PET Film from India Decision Memo).

Polyplex contends that the facts in the instant investigation are similar to the facts in Silicon Metal from Brazil, where the Department also applied the special rule. *See Silicon Metal From Brazil: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke Order in Part*, 66 FR 40980 (August 6, 2001) (*Silicon Metal from Brazil*). In *Silicon Metal from Brazil*: 1) the U.S. affiliate of the respondent also further manufactured the subject merchandise it purchased from respondent into numerous products; 2) the respondent was unable to trace the subject merchandise purchased by the affiliate to the manufactured product since the subject merchandise was purchased from different producers and commingled in the production process; and 3) products containing subject merchandise were processed at a variety of plants both in the United States and overseas, making it difficult to assess the value added solely in the united States. Polyplex notes that in *Silicon Metal from Brazil*, the Department applied the special rule due to the burden placed on the Department in calculating a dumping margin for the subject merchandise imported by the U.S. affiliate.

Polyplex argues that the Department has also applied the special rule in *Lemon Juice from Mexico. See Notice of Preliminary Determinations of Sales at Less Than Fair Value and of Critical Circumstances in Part: Lemon Juice from Mexico*, 72 FR 20830 (April 26, 2007). In Lemon Juice from Mexico, Polyplex maintains that the Department applied the special rule because ''the value added in the United States is likely to exceed substantially the value of the subject merchandise and that is a sufficient quantity of U.S. sales of non–further-processed merchandise to provide a reasonable basis for comparison to normal value.'' *See Lemon Juice from Mexico*, 72 FR 20833. Polyplex contends that similar to Lemon Juice from Mexico, the Department should apply the special rule for Company A's purchases of subject merchandise from Polyplex Thailand and PA.

Polyplex proposes two alternate special rule methodologies. First, Polyplex suggests that the Department base the margin for further manufactured sales on the price of other subject merchandise sold to unaffiliated U.S. customers, *i.e.*, all other sales excluding sales to Company A. Polyplex contends that this methodology was used by the Department in other special rule decisions in the past. Alternatively, Polyplex suggests that Department rely on the ''arm's length prices'' from Polyplex and PA (Polyplex's U.S. sales affiliate) to Company A.

Petitioner's Comments on Use of the Special Rule

In its April 16, 2008, comments, petitioners argue that the Department should asses the dumping margin on sales to Company A using the margin calculated on sales of the identical grade of merchandise sold to customers in the targeted group of customers. Because of the timing of petitioner's comments so close to the preliminary determination date, we did not have sufficient time to analyze petitioner's comments prior to the April 25, 2008, deadline for issuance of the preliminary determination. We intend to address this allegation in full for purposes of the final determination.

Department's Analysis For Use of the Special Rule

The information on the record indicates that the value added in the United States substantially exceeds the value of the subject merchandise and that any potential accuracy gained by applying the standard methodology is likely outweighed by the burden of its application. Specifically, the significant

[1]With respect to the specified alternative methods the Department may use after invoking the special rule, the Statement of Administrative Action notes:

The alternative methods for establishing export price are: (1) the price of identical subject merchandise sold by the exporter or producer to an unaffiliated person; or (2) the price of other subject merchandise sold by the exporter or producer to an unaffiliated person. There is no hierarchy between these alternative methods of establishing the export price. If there is not a sufficient quantity of sales under either of these alternatives to provide a reasonable basis for comparison, or if the Department determines that neither of these alternatives is appropriate, it may use any other reasonable method to determine constructed export price, provided that it provides to interested parties a description of the method chosen and an explanation of the basis for its selection. Such a method may be based upon the price paid to the exporter or producer by the affiliated person for the subject merchandise, if the Department determines that such a price is appropriate.

See URAA, Statement of Administrative Action, H. Doc 316, Vol. 1, 103d Cong., (1994) (*SAA*) at 826.

number of models of further manufactured products produced and sold by Company A during the POI and the inability of Company A to identify the source of the PET film used in a particular further manufactured product greatly complicates the analysis required to apply the standard methodology. Furthermore, the fact that Company A is unable to identify the source of the PET film used in a particular further manufactured product, and both Polyplex Thailand and PA sold PET film to Company A, further complicates the analysis by requiring the Department to develop assumptions about the adjustments that need to be made in order to calculate net U.S. price.

Given the forgoing, and the fact that there is a sufficient quantity of non–further processed subject merchandise sales to unaffiliated parties in the United States to provide a reasonable basis for comparison under the special rule, we have determined that it is appropriate to apply the special rule of section 772(e) of the Act in this case.

In this proceeding, we have determined that it is appropriate to base the dumping margins for Polyplex's further manufactured sales on the weighted–average dumping margins calculated on sales of other subject merchandise sold to unaffiliated U.S. customers.

Fair Value Comparisons

To determine whether sales of PET Film from Thailand were made in the United States at less than normal value (NV), we compared the EP or CEP to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections below. In accordance with section 777A(d)(i) of the Act, we calculated the weighted–average prices for NV and compared these to the weighted–average of EP (and CEP), when appropriate.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. Pursuant to section 772(a) of the Act, we used the EP methodology when the merchandise was sold by the producer or exporter outside the United States directly to the first unaffiliated purchaser in the United States prior to importation and when CEP was not otherwise warranted based on the facts on the record. We calculated CEP for those sales where a person in the United States, affiliated with the foreign exporter or acting for the account of the exporter, made the sale to the first unaffiliated purchaser in the United States of the subject merchandise. *See* section 772(b) of the Act. We based EP and CEP on the packed prices charged to the first unaffiliated customer in the United States and the applicable terms of sale, where appropriate.

We calculated EP based on prices charged to the first unaffiliated U.S. customer. We used the bill of lading date as the date of sale.[2] We based EP on the packed free on board (FOB) prices to the first unaffiliated purchasers outside Thailand. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, including foreign inland freight, foreign inland insurance, and foreign brokerage and handling.

We calculated CEP based on prices charged to the first unaffiliated U.S. customer after importation, where appropriate. We used the sale invoice date as the date of sale. We based CEP on the gross unit price from PA to its unaffiliated U.S. customers, making adjustments where necessary for billing adjustments, pursuant to section 772(c)(1) of the Act. Where applicable, the Department made deductions for movement expenses (foreign inland freight, foreign inland insurance, foreign brokerage and handling, international freight, U.S. movement from warehouse to customer, U.S. customs duty and brokerage, marine insurance and 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 credit expenses, U.S. indirect selling expenses, and U.S. inventory carrying costs incurred in the United States and Thailand associated with economic activities in the United States. We also deducted CEP profit in accordance with section 772(d)(3) of the Act.

Normal Value

A. Home Market Viability and Comparison Market Selection

To determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of the subject merchandise. Pursuant to section 773(a)(1)(B)(i) of the Act, because Polyplex Thailand had an aggregate volume of home market sales of the foreign like product that was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market is viable for comparison purposes. Accordingly, we calculated NV for Polyplex based on sales prices to Thai customers.

B. Cost of Production Analysis

Based on our analysis of the petitioners' allegation, we found that there were reasonable grounds to believe or suspect that Polyplex Thailand's sales of PET Film in the home market were made at prices below its COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales–below-cost investigation to determine whether Polyplex Thailand's sales were made at prices below its COP. See Memorandum to Richard Weible, Director, Office 7, AD/CVD Operations, from The Team entitled ''The Petitioners' Allegation of Sales Below the Cost of Production for Polyplex Public Company Ltd. and Polyplex Americas, Inc.'' dated February 19, 2008.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondent's COP based on the sum of its costs of materials and conversion for the foreign like product, plus an amount for general and administrative (G&A) expenses and financial expenses. *See* the ''Test of Comparison Market Sales Prices'' section below for the treatment of comparison market selling expenses.

The Department relied on the COP data submitted by Polyplex in its section D questionnaire and supplemental questionnaire responses for the COP calculation with the exception of the financial expense ratio. We have recalculated the financial expense ratio to include the net amount of the foreign exchange gains and losses recognized by Polyplex's parent company in its 2006–2007 consolidated financial statements and exclude the interest income offset related to interest charges collected from customers for late payment.

For a complete discussion of the changes made to the cost information submitted by Polyplex, see Memorandum to Neal M. Halper, Director, Office of Accounting, titled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Determination - Polyplex (Thailand) Public Company Ltd. and Polyplex (Americas) Inc.,'' dated April 25, 2008 (Polyplex Cost Calculation Memo).

2. Test of Comparison Market Sales Prices

[2] *See* the Department's Sales Analysis Memorandum for a further discussion of this issue.

On a product–specific basis, we compared the adjusted weighted–average COP to the comparison market sales of the foreign like product, as required under section 773(b) of the Act, in order to determine whether the sale prices were below the COP. For purposes of this comparison, we used the COP exclusive of selling and packing expenses. The prices were exclusive of any applicable movement charges, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) 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 POI were at prices less than COP, we determined that such sales have been made in ''substantial quantities.'' *See* section 773(b)(2)(C) of the Act. Further, the sales were made within an extended period of time, in accordance with section 773(b)(2)(B) of the Act, because we examined below–cost sales occurring during the entire POI. In such cases, because we compared prices to POI–average costs, 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.

We found that, for certain products, more than 20 percent of Polyplex's sales were at prices less than the COP and, in addition, such sales did not provide for the recovery of costs within a reasonable period of time. We therefore excluded these sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

C. Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on packed prices to unaffiliated customers in Thailand and matched U.S. sales to NV. We made deductions, where appropriate, for discounts, rebates, movement expenses, and packing pursuant to section 773(a)(6)(B) of the Act. When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411(a) and (b). We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise. *See* 19 CFR 351.411(b). We also made adjustments for differences in circumstances of sale (COS) as appropriate (*i.e.*, commissions and credit), in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410.

In addition, for comparisons made to CEP sales, we only deducted Thai credit expenses from comparison market prices, because U.S. credit expenses were deducted from U.S. price, as noted above and in accordance with section 772(c)(2) of the Act.

D. Calculation of Normal Value Based on Constructed Value

Section 773(a)(4) of the Act provides that where NV cannot be based on comparison–market sales, NV may be based on constructed value (CV). Accordingly, for PET Film for which we could not determine the NV based on comparison–market sales, either because there were no useable sales of a comparable product or all sales of the comparable products failed the COP test, we based NV on the CV.

Section 773(e) of the Act provides that the CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for SG&A expenses, profit, and U.S. packing costs. We calculated the cost of materials and fabrication, selling and administrative (SG&A), and interest based on the methodology described in the ''Cost of Production Analysis'' section, above.

We based profit on the actual amounts incurred and realized by Polyplex in connection with the production and sale of the foreign like product in the ordinary course of trade for consumption in the comparison market, in accordance with section 773(e)(2)A) of the

Act.

We made adjustments to CV for differences in COS in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made COS adjustments by deducting direct selling expenses incurred on home market sales from, and adding U.S. direct selling expenses to, CV.

E. Level of Trade/Constructed Export Price Offset

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 level of trade (LOT) as the EP or CEP transaction. The LOT in the comparison market is the LOT of the starting–price sales in the comparison market or, when NV is based on CV, the LOT of the sales from which we derive SG&A expenses and profit. With respect to U.S. prices for EP transactions, the LOT is also that of the starting–price sale, which is usually from the exporter to the first unaffiliated importer. *See* section 351.412(c)(i) of the Department's regulations. For CEP, the LOT is that of the constructed sale from the exporter to the affiliated importer. *See* section 351.412(c)(ii) of the Department's regulations. *See also Micron Technology, Inc. v. United States*, 243 F.3d 1301, 1314 (Fed. Cir. 2001) (*Micron Technology*).

To determine whether comparison market sales were at a different LOT from 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. Under the Department's LOT practice, if the comparison market sales are at different LOTs, 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 LOT of the export transaction, the Department makes an LOT adjustment in accordance with section 773(a)(7)(A) of the Act. For CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. We also analyze whether different selling activities are performed, and whether any price differences (other than those for which other allowances are made under the Act) are shown to be wholly or partly due to a difference in LOT between the CEP and NV. Under section 773(a)(7)(A) of the Act, we further make an upward or downward adjustment to NV for LOT if the difference in LOT involves the performance of different selling activities and is demonstrated to affect price comparability, based on a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined. Finally, if the NV LOT is at a more advanced stage of distribution than the LOT of the CEP, but the data available do not provide an appropriate basis to determine a LOT adjustment, we reduce NV by the amount of indirect selling expenses incurred in the foreign comparison market on sales of the foreign like product, but by no more than the amount of the indirect selling expenses incurred for CEP sales. See section 773(a)(7)(B) of the Act (the CEP offset provision).

In analyzing 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.

In the present investigation, Polyplex did not request a LOT adjustment. *See* BCQR at B–28. In order to determine whether the comparison market 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 ''channel of distribution''), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Polyplex reported two channels of distribution in the comparison market (*i.e.*, Thailand), distributors and end–users. Polyplex reported its selling functions to both distributors and end–users in the comparison market as: technical services/support, customer interaction, sales calls, marketing research, order processing, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), inventory maintenance (consignment sales), sales forecasting, sales promotion, and warranty. We examined the selling activities reported for each channel of distribution and found that Polyplex's level of selling functions to its comparison market customers did not vary significantly by channel of distribution. Specifically, Polyplex performed the same selling functions at a similar level of performance for sales in both comparison market channels of distribution (*e.g.*, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), sales forecasting, sales promotion, and warranty). *See* AQR at Exhibit 8 (*i.e.*, selling functions chart) and Exhibit S1 of the SABCQR. We find that the only meaningful difference between the two channels in terms of the services provided in the stages of marketing (and the degree of performance of those services) is that Polyplex provides customer interaction, sales calls, and order processing services at a higher degree for its end–use customers than distributors. *Id.* We do not find these differences alone to be sufficient for finding more than one LOT. Therefore, we preliminarily find that the selling functions for the reported channels of distribution constitute one LOT in the comparison market.

Polyplex reported that its EP and CEP sales to the United States were made through four channels of distribution: 1) CEP PA direct to customer drop ship sales (no warehousing) (channel 1); 2) CEP PA warehousing in customer's warehouse (consignment sales) (channel 2); 3) CEP PA warehousing in PA's warehouse (from inventory) (channel 3); and 4) EP direct sales on an FOB basis (channel 4). For EP and CEP sales, we examined the selling activities related to each of the selling functions between Polyplex and its U.S. customers. Polyplex reported its selling functions to distributors (*i.e.*, PA) and end–users in the United States as: technical services/support, customer interaction, sales calls, marketing research, order processing, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), inventory maintenance (consignment sales), sales forecasting, sales promotion, and warranty. We examined Polyplex's selling functions for its U.S. sales and found that channels 1, 2, and 3 (*i.e.*, CEP sales to PA) are essentially the same channel with the same selling functions performed.[3]

For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and CEP profit under section 772(d) of the Act. *See Micron Technology*, 243 F.3d at 1314–1315. We reviewed the selling functions and services performed by Polyplex on CEP sales for the three channels of distribution relating to the CEP LOT, as described by Polyplex in its questionnaire response, after these deductions. Exhibit 8 of the AQR and Exhibit S1 of the SABCQR detail the selling functions performed for sales from Polyplex to PA and, then to distributors and end use customers. All three channels are included in the same selling function columns. Therefore, the Department finds that there are two channels of distribution in the United States, consisting of Polyplex's EP sales (*i.e.*, channel 4) and Polyplex's CEP sales (*i.e.*, channels 1, 2, and 3). We then compared the selling functions between Polyplex's CEP sales and Polyplex's EP direct U.S. sales.

The Department finds that the two channels of distribution in the U.S. vary significantly. For instance, the selling functions provided by Polyplex to unaffiliated customers in the U.S. (*i.e.*, EP direct sales to end–users) were usually at a medium level, while providing a high level of technical support. Polyplex provided a minimum level of sales calls, marketing research, inventory maintenance (non–consignment sales), while providing no sales promotion and warranty services. However, Polyplex usually provided no selling functions for sales to PA; only providing a minimum of technical services, order processing, delivery services, and moderate sales forecasting. *See* Exhibit A1 of Polyplex's March 12, 2008, supplemental questionnaire response. Therefore, we preliminary determine that Polyplex's U.S. sales are made at two LOTs (*i.e.*, CEP and EP).

We then compared the selling functions Polyplex provided in the comparison market LOT with the selling functions provided for the two U.S. LOTs. On this basis, we determined that the comparison market LOT is similar to Polyplex's U.S. LOT for EP sales. We made this determination based upon the minor differences that exist between Polyplex's comparison and U.S. EP sales, specifically the minimum level of sales calls and market research provided in the U.S. compared to medium to high level provided in the comparison market. *See* Exhibit A1 of Polyplex's March 12, 2008, supplemental questionnaire response. Moreover, we find that the degree to which Polyplex provides these identical selling functions for its customers in both markets to be the same or similar (*i.e.*, technical services, customer interaction, order processing, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), sales forecasting, and warranty). Therefore, we preliminarily determine that Polyplex is not entitled to a LOT adjustment with respect to these sales.

According to section 773(a)(7)(B) of the Act, a CEP offset is appropriate when the LOT in the comparison market is at a more advanced stage than the LOT of the CEP sales and there are no data available to determine the existence of a pattern of price difference. Polyplex reported that it provided minimal selling functions and services for the one (CEP) LOT in the United States and that, therefore, the

[3] The Department notes that Polyplex's U.S. sales to Company A are being excluded from our analysis pursuant to the *Department's Analysis For Use of the Special Rule* section above. As such, Polyplex Thailand's EP sales, and certain CEP sales to Company A, will not be used in the margin analysis. The Department has conducted an LOT analysis for this preliminary determination because removing the sales in question is a preliminary decision and removing the sales in question does not affect the ultimate conclusion reached by the LOT analysis.

comparison market LOT is more advanced than the CEP LOT. Based on our analysis of the channels of distribution and selling functions performed by Polyplex for sales in the comparison market and CEP sales in the U.S. market, we preliminarily find that the comparison market LOT is at a more advanced stage of distribution when compared to CEP sales because Polyplex provides many more selling functions in the comparison market at a higher level of service as compared to selling functions performed for its CEP sales (*i.e.*, technical services/support, customer interaction, sales calls, marketing research, order processing, price negotiation, credit/payment collection, delivery/freight, inventory maintenance (non–consignment sales), inventory maintenance (consignment sales), and sales promotion). *See* Exhibit S1 of Polyplex's SABCQR. Thus, we find that Polyplex's comparison market sales are at a more advanced LOT than its CEP sales. There is one LOT in the comparison market, and there are no data available to determine the existence of a pattern of price difference, and we do not have any other information that provides an appropriate basis for determining a LOT adjustment. Therefore, consistent with section 773(a)(7)(B) of the Act, we applied a CEP offset to NV for CEP comparisons.

To calculate the CEP offset, we deducted from NV the comparison market indirect selling expenses from NV for comparison market sales that were compared to U.S. CEP sales. As such, we limited the comparison market indirect selling expense deduction by the amount of the indirect selling expenses deducted in calculating the CEP as required under section 772(d)(1)(D) of the Act.

Currency Conversion

We made currency conversions into U.S. dollars in accordance with section 773A of the Act and 19 CFR 351.415 based on the exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank.

Verification

As provided in section 782(i) of the Act, we intend to verify all information upon which we will rely in making our final determination.

Preliminary Determination

The weighted–average dumping margin in the preliminary determination is as follows:

Producer/Exporter	Weighted–Average Margin (Percentage)
Polyplex (Thailand) Public Company Ltd.	0.00

Suspension of Liquidation

In accordance with section 733(b)(3) of the Act, the Department will disregard any weighted–average dumping margin that is zero or *de minimis, i.e.* less than 2 percent ad valorem. Based on our preliminary margin calculation, we will not direct the U.S. CBP to suspend liquidation of any entries of PET Film from Thailand as described in the ''Scope of Investigation'' section that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The Department does not require any cash deposit or posting of a bond for this preliminary determination.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of the Department's preliminary determination. If the Department's final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether imports of PET Film from Thailand are materially injuring, or threaten material injury to, the U.S. industry. We will disclose the calculations used in our analysis to parties in this proceeding in accordance with 19 CFR 351.224(b).

Public Comment

Interested parties are invited to comment on the preliminary determination. Interested parties may submit case briefs to the Department no later than seven days after the date of the issuance of the final verification report in this proceeding. *See* 19 CFR 351.309(c)(1)(i). Rebuttal briefs, the content of which is limited to the issues raised in the case briefs, must be filed within five days of the deadline date for the submission of case briefs. *See* 19 CFR 351.309(d)(1) and (2). A list of authorities used, a table of contents, and an executive summary of issues should accompany any briefs submitted to the Department. Executive summaries should be limited to five pages total, including footnotes. Further, we request that parties submitting briefs and rebuttal briefs provide the Department with a copy of the public version of such briefs on diskette. In accordance with section 774 of the Act, and 19 CFR 351.310, the Department will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs, provided that such a hearing is requested by an interested party. If a request for a hearing is made in this investigation, pursuant to 19 CFR 351.310(c) the hearing will tentatively be held two days after the rebuttal brief deadline date at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230, at a time and in a room to be determined.

Parties should confirm by telephone, the date, time, and location of the hearing 48 hours before the scheduled date.

Interested parties, who wish to request a hearing, or to participate in a hearing if one is requested, must submit a written request to the Secretary of Commerce, Attention Assistant Secretary for Import Administration, U.S. Department of Commerce, APO/Dockets Unit Room 1870, within 30 days of the publication of this notice. Requests should contain: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. *See* 19 CFR 351.310(c). At the hearing, oral presentations will be limited to issues raised in the case and rebuttal briefs.

This determination is issued and published pursuant to sections 733(f) and 777(i)(1) of the Act and 19 CFR 351.205(c).

Dated: April 25, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–9840 Filed 5–2–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–832

Pure Magnesium from the People's Republic of China: Extension of Time for the Preliminary Results of the Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: May 5, 2008.

FOR FURTHER INFORMATION CONTACT: Hua Lu, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–6478.

SUPPLEMENTARY INFORMATION:

Background

On February 6, 2008, the Department of Commerce (''the Department'') published in the **Federal Register** a notice for an extension of time to issue the preliminary results of the antidumping duty administrative review on pure magnesium from the People's Republic of China (''PRC''). *See Pure Magnesium from the People's Republic of China: Extension of Time for the Preliminary Results of the Antidumping Duty Administrative Review*, 73 FR 6931 (February 6, 2008). The Department extended the time period for issuing the preliminary results of review by 90 days until April 30, 2008.

Extension of Time Limit of Preliminary Results.

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''Act''), requires the Department to issue preliminary results within 245 days after the last day of the anniversary month of an order for which a review is requested and the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within this time period, section 751(a)(3)(A) of the Act allows the Department to extend the 245-day time period to a maximum of 365 days. We determine that completion of the preliminary results of this review within the 335-day period is not practicable because the Department requires additional time to analyze information pertaining to the respondents' sales practices, factors of production, and to issue and review responses to supplemental questionnaires.

Because it is not practicable to complete this review within the time specified under the Act, we are fully extending the time period for issuing the preliminary results of to 365 days. Therefore, the preliminary results are now due no later than May 30, 2008, in accordance with section 751(a)(3)(A) of the Act. The final results continue to be due 120 days after the publication of the preliminary results.

This notice is published pursuant to sections 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: April 29, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–9891 Filed 5–2–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2008–OS–0044]

Proposed Collection; Comment Request

AGENCY: Defense Logistics Agency, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Logistics Agency announces a proposed new public information collection and seeks public comment on the provisions thereof. 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 shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 7, 2008.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Logistics Agency, ATTN: Ms. Mickey Slater, J–651, 8725 John J. Kingman Road, Fort Belvoir, Virginia, 22060, or call (717) 770–6680.

Title; Associated Form; and OMB Number: Project Time Record System; OMB Control Number 0704–TBD.

Needs and Uses: Contractors working for the Defense Logistics Agency, Information Operations, J–6, log into an automated project time record system and annotate their time on applicable projects. The system collects the records for the purpose of tracking workload/project activity for analysis and reporting purposes, and labor distribution data against projects for financial purposes; and to monitor all aspects of a contract from a financial perspective and to maintain financial and management records associated with the operations of the contract; and to evaluate and monitor the contractor performance and other matters concerning the contract, i.e., making payments, and accounting for services provided and received. Defense Logistics Agency, Information Operations, J–6, intends to execute this option on new contracts and, as necessary, modify existing contract agreements.

Affected Public: Individuals; businesses or other for profit; not-for-profit institutions.

Annual Burden Hours: 32,500.

Number of Respondents: 2,500.

Responses Per Respondent: 52.

Average Burden Per Response: 15 minutes.

Frequency: Weekly.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

Respondents are individuals who work for Defense Logistics Agency, Information Operations, J–6, and log into the automated project time record system to annotate their time worked on each project.

Dated: April 28, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9805 Filed 5–2–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS)

AGENCY: Department of Defense.

ACTION: Notice.

SUMMARY: Pursuant to Section 10(a), Public Law 92–463, as amended, notice is hereby given of a forthcoming meeting of the Defense Department Advisory Committee on Women in the Services (DACOWITS). The purpose of the Committee meeting is to receive

briefings and have panel discussions on subjects pertaining to the 2008 topics. The meeting is open to the public, subject to the availability of space.

DATES: May 15, 2008 (8:30 a.m.–5 p.m.) and May 16, 2008 (8:30 a.m.–5 p.m.)

ADDRESSES: Double Tree Hotel Crystal City National Airport, 300 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: MSgt Robert Bowling, USAF, DACOWITS, 4000 Defense Pentagon, Room 2C548A, Washington, DC 20301–4000. *Robert.bowling@osd.mil* Telephone (703) 697–2122. Fax (703) 614–6233.

SUPPLEMENTARY INFORMATION:

Meeting Agenda

Thursday, May 15, 2008, 8:30 a.m.–5 p.m.

—Welcome & Administrative Remarks.
—Success Strategies Panel With Senior Military Members.
—Briefing—Navy ''Quality of Life'' Task Force Report.
—Briefing—Army Research Institute SSMP 2007.
—Lunch & Briefing—Marine Corps Mentors Program.
—Success Strategies Panel with Civilians.
—Briefing—DoD Equal Opportunity Office of Diversity.
—Briefing—Status of Forces.
—Briefing—Elite Military Women's Strategies of Success.
—Public Forum.

Friday, May 16, 2008, 8:30 a.m.–5 p.m.

—Welcome and Administrative Remarks.
—Review 2008 Installation Visits.
—Briefing—Army Child Education Initiatives and Opportunities.
—Briefing—Navy Child Education Initiatives and Opportunities.
—Lunch & Briefing—Marine Corps Child Education Initiatives and Opportunities.
—Briefing—Air Force Child Education Initiatives and Opportunities.
—Briefing—Coast Guard Child Education Initiatives and Opportunities.
—Briefing—Dept. of Education Charter School Opportunities.
—Briefing—Center for Education Reform.
—Briefing—North American Council for On-Line Learning.
—Wrap Up.

Note: Exact order may vary.

Interested persons may submit a written statement for consideration by the Defense Department Advisory Committee on Women in the Services. Individuals submitting a written statement must submit their statement to the Point of Contact at the address listed above NLT 5 p.m., Tuesday, May 13, 2008. If a written statement is not received by Tuesday, May 13, 2008, prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Defense Department Advisory Committee on Women in the Services until its next open meeting. The Designated Federal Officer will review all timely submissions with the Defense Department Advisory Committee on Women in the Services Chairperson and ensure they are provided to the members of the Defense Department Advisory Committee on Women in the Services. If members of the public are interested in making an oral statement, a written statement must be submitted as detailed above. After reviewing the written comments, the Chairperson and the Designated Federal Officer will determine who of the requesting persons will be able to make an oral presentation of their issue during an open portion of this meeting or at a future meeting. Determination of who will be making an oral presentation will depend on time available and if the topics are relevant to the Committee's activities. Two minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted only on Thursday, May 15, 2008, from 4:45 p.m. to 5 p.m. before the full Committee. Number of oral presentations to be made will depend on the number of requests received from members of the public.

Dated: April 29, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9801 Filed 5–2–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

National Security Education Board Members Meeting

AGENCY: Under Secretary of Defense Personnel and Readiness, DoD.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a forthcoming meeting of the National Security Education Board. The purpose of the meeting is to review and make recommendations to the Secretary of Defense concerning requirements established by the David L. Boren National Security Education Act, Title VII of Public Law 102–183, as amended.

DATES: June 25, 2008.

ADDRESSES: Sheraton Crystal City Hotel, Crystal VI Conference Room, 1800 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Kevin Gormley, Program Officer, National Security Education Program, 1101 Wilson Boulevard, Suite 1210, Rosslyn P.O. Box 20010, Arlington, Virginia 22209–2248; (703) 696–1991. Electronic mail address: *Gormleyk@ndu.edu.*

SUPPLEMENTARY INFORMATION: The National Security Education Board Members meeting is open to the public. The public is afforded the opportunity to submit written statements associated with NSEP.

Dated: April 29, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9803 Filed 5–2–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

U.S. Nuclear Command and Control System Comprehensive Review Advisory Committee; Closed Meeting

AGENCY: Department of Defense.

ACTION: Notice of closed meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. paragraph 552b, as amended), and 41 CFR paragraph 102–3.150, the Department of Defense announces a Federal Advisory Committee meeting of the U.S. Nuclear Command and Control System Comprehensive Review Advisory Committee will take place.

DATES: June 3, 2008 (8:30 a.m. to 5 p.m.).

ADDRESSES: Room 4D447, Pentagon.

FOR FURTHER INFORMATION CONTACT: Mr. William L. Jones, (703) 681–8681, U.S. Nuclear Command and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike, Suite 500, Falls Church, Virginia 22041.

SUPPLEMENTARY INFORMATION: Pursuant to 5 U.S.C. paragraph 552b, as amended, and 41 CFR paragraph 102–3.155, the Department of Defense has determined that the meeting shall be closed to the

public. The Director, U.S. Nuclear Command and Control System Support Staff, in consultation with his General Counsel, has determined in writing that the public interest requires that all sessions of the committee's meeting will be closed to the public because they will be concerned with classified information and matters covered by section 5 U.S.C. paragraph 552b(c)(1).

Purpose of the Meetings: The purpose of this meeting is to provide an introduction to National Nuclear Command and Control System policies, issues, trends, emerging issues, and threats.

Agenda:

8:30 a.m. Administrative Remarks, CAPT Budney, USN (NSS)
8:45 a.m. Welcome, Secretary of Defense Gates
9 a.m. Introductory Remarks, ADM Mies (FAC Chairman)
9:30 a.m. National NCCS Policy, Dr. John Weinstein (NSS)
10:30 a.m. NSC Perspective, RADM Tidd, NSC
11 a.m. NCCS Issues, Trends, and Emerging Issues, Dr. John Weinstein (NSS)
11:45 a.m. Overview of other NCCS-Related Studies, CAPT Rick Low, USN (NSS)
12:15 p.m. Lunch, TBD
1:15 p.m. Foreign and Domestic Threat to NCCS, (ODNI)
2 p.m. FAC Executive Session
2 p.m. Research Group Travel Brief, (Location TBD)
3 p.m. Working Group Chairs—Discuss Cross Cutting Issues
3 p.m. FAC tours NMCC, observe NIGHT BLUE Exercise
5 p.m. Adjourn.

Committee's Designated Federal Officer: Mr. William L. Jones, (703) 681–8681, U.S. Nuclear Command and Control System Support Staff (NSS), Skyline 3, 5201 Leesburg Pike, Suite 500, Falls Church, Virginia 22041. *William.jones@nss.pentagon.mil.*

Pursuant to 41 CFR paragraphs 102–3.105(j) and 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, the public or interested organizations may submit written statements at any time to the Nuclear Command and Control System Federal Advisory Committee about its mission and functions. All written statements shall be submitted to the Designated Federal Officer for the Nuclear Command and Control System Federal Advisory Committee. He will ensure that written statements are provided to the membership for their consideration. Written statements may also be submitted in response to the stated agenda of planned committee meetings. Statements submitted in response to this notice must be received by the Designated Federal Officer at least five calendar days prior to the meeting which is the subject of this notice. Written statements received after that date may not be provided or considered by the Committee until its next meeting. All submissions provided before that date will be presented to the committee members before the meeting that is subject of this notice. Contact information for the Designated Federal Officer is listed above.

Dated: April 29, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9817 Filed 5–2–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

[Docket ID: USA–2008–0006]

Proposed Collection; Comment Request

AGENCY: Office of the Administrative Assistant to the Secretary of the Army (OAA–AAHS), DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed extension of a public information collection and seeks public comment on the provisions thereof. 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by July 7, 2008.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- Mail: Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Surface Deployment and Distribution Command, G5, 709 Ward Drive, Building 1990, ATTN: (Jerome Colton) Scott Air Force Base, Illinois 62225, or call Department of the Army Reports clearance officer at (703) 428–6440.

Title, Associated Form, and OMB Number: Industry Partnership Survey; OMB Control Number 0702–0122.

Needs and Uses: The information collected from this survey will be used to systematically survey and measure industry contractors to better understand how they feel about SDDC's acquisition processes, and to improve the way business is conducted. The SDDC provides global surface deployment command and control and distribution operations to meet National Security objectives in peace and war. They are working to be the Warfighter's single surface deployment/distribution provider for adaptive and flexible solutions delivering capability and sustainment on time. Respondents will be commercial firms who have contracts awarded by SDDC for several program areas.

Affected Public: Business or other for-profit.

Annual Burden Hours: 343.

Number of Respondents: 1,371.

Responses Per Respondent: 1.

Average Burden Per Response: 15 minutes.

Frequency: Other (14-month cycle).

SUPPLEMENTARY INFORMATION: The SDDC will use the survey information to improve the efficiency, quality, and timeliness of its processes, as well as to strengthen its partnership with industry. The SDDC goal is to promote this survey effort as a useful self-assessment, self-improvement, and benchmarking tool, while ensuring that data reliability is maintained.

Dated: April 28, 2008.

Patricia L. Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–9802 Filed 5–2–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy (USMA)

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150, the Department of Defense announces that the following Federal advisory committee meeting will take place:

1. *Name of Committee:* United States Military Academy Board of Visitors.
2. *Date:* Wednesday, May 14, 2008.
3. *Time:* 1 p.m.–4 p.m. Members of the public wishing to attend the meeting will need to show photo identification in order to gain access to the meeting location. All participants are subject to security screening.
4. *Location:* Senate Russell Office Building, Washington, DC 20515 (exact room location will be published on the USMA Board of Visitors Web site at *http://www.usma.edu/bov.asp*).
5. *Purpose of the Meeting:* This is the 2008 Spring Meeting of the USMA Board of Visitors (BoV). Members of the Board will be provided updates on Academy issues.
6. *Agenda:* The Academy leadership will provide the Board updates on the following: Admissions, The Center of Professional Military Ethics, Capstone Course, FY08 & FY09 Budget and Manpower, Business Transformation, USMA Master Plan, Uniform Code of Military Justice (UCMJ), Accreditation, Residential Communities Initiative (RCI), and Diversity.
7. *Public's Accessibility to the Meeting:* Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, and the availability of space, this meeting is open to the public. Seating is on a first-come basis.
8. *Committee's Designated Federal Officer or Point of Contact:* Ms. Cynthia Kramer, (845) 938–5078, *Cynthia.kramer@us.army.mil*.

SUPPLEMENTARY INFORMATION: Any member of the public is permitted to file a written statement with the USMA Board of Visitors. Written statements should be sent to the Designated Federal Officer (DFO) at: United States Military Academy, Office of the Secretary of the General Staff (MASG), 646 Swift Road, West Point, NY 10996–1905 or faxed to the Designated Federal Officer (DFO) at (845) 938–3214. Written statements must be received no later than five working days prior to the next meeting in order to provide time for member consideration. By rule, no member of the public attending open meetings will be allowed to present questions from the floor or speak to any issue under consideration by the Board.

FOR FURTHER INFORMATION CONTACT: Ms. Cynthia Kramer, (845) 938–5078 (fax: 845–938–3214) or via e-mail: *Cynthia.kramer@us.army.mil*.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–9810 Filed 5–2–08; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Western Hemisphere Institute for Security Cooperation Board of Visitors; Meeting

AGENCY: Department of the Army, DoD.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the summer meeting of the Board of Visitors (BoV) for the Western Hemisphere Institute for Security Cooperation (WHINSEC). Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463). The Board's charter was renewed on February 1, 2008 in compliance with the requirements set forth in Title 10 U.S.C. 2166.

Date: Thursday, June 5, 2008.

Time: 9 a.m. to 3:30 p.m.

Location: 2212 Rayburn House Office Building, Washington, DC.

Proposed Agenda: The WHINSEC BoV will be briefed on activities at the Institute since the last Board meeting on November 2, 2007 as well as receive other information appropriate to its interests.

FOR FURTHER INFORMATION CONTACT: WHINSEC Board of Visitors Secretariat at (703) 692–7852 or (703) 692–8221.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Pursuant to the Federal Advisory Committee Act of 1972 and 41 CFR 102–3.140(c), members of the public or interested groups may submit written statements to the advisory committee for consideration by the committee members. Written statements should be no longer than two type-written pages and sent via fax to (703) 614–8920 by 5 p.m. EST on Monday, June 2, 2008 for consideration at this meeting. In addition, public comments by individuals and organizations may be made from 11:45 a.m. to 12:15 p.m. during the meeting. Public comments will be limited to three minutes each. Anyone desiring to make an oral statement must register by sending a fax to (703) 614–8920 with their name, phone number, e-mail address, and the full text of their comments (no longer than two type-written pages) by 5 p.m. EST on Monday, June 2, 2008. The first ten requestors will be notified by 5 p.m. EST on Tuesday, June 3, 2008 of their time to address the Board during the public comment forum. All other comments will be retained for the record. Public seating is limited and will be available on a first come, first serve basis.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–9811 Filed 5–2–08; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Taxes (OMB Control Number 0704–0390)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the

burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through August 31, 2008. DoD proposes that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by July 7, 2008.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0390, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: dfars@osd.mil.* Include OMB Control Number 0704–0390 in the subject line of the message.
- *Fax:* 703–602–7887.
- *Mail:* Defense Acquisition Regulations System, Attn: Ms. Felisha Hitt, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.
- *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Felisha Hitt, 703–602–0310. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Ms. Felisha Hitt, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 229, Taxes, and related clause at DFARS 252.229–7010; OMB Control Number 0704–0390.

Needs and Uses: DoD uses this information to determine if DoD contractors in the United Kingdom have attempted to obtain relief from customs duty on vehicle fuels in accordance with contract requirements.

Affected Public: Businesses or other for-profit institutions.

Annual Burden Hours: 300.

Number of Respondents: 75.

Responses per Respondent: 1.

Annual Responses: 75.

Average Burden per Response: 4 hours.

Frequency: On occasion.

Summary of Information Collection

The clause at DFARS 252.229–7010, Relief from Customs Duty on Fuel (United Kingdom), is prescribed at DFARS 229.402–70(j) for use in solicitations issued and contracts awarded in the United Kingdom that require the use of fuels (gasoline or diesel) and lubricants in taxis or vehicles other than passenger vehicles. The clause requires the contractor to provide the contracting officer with evidence that the contractor has initiated an attempt to obtain relief from customs duty on fuels and lubricants, as permitted by an agreement between the United States and the United Kingdom.

Michele P. Peterson,

Editor, Defense Acquisition Regulations System.

[FR Doc. E8–9853 Filed 5–2–08; 8:45 am]

BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Types of Contracts (OMB Control Number 0704–0259)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. *DoD invites comments on:* (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection requirement for use through August 31, 2008. DoD proposes that OMB extend its approval for use for three additional years.

DATES: DoD will consider all comments received by July 7, 2008.

ADDRESSES: You may submit comments, identified by OMB Control Number 0704–0259, using any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: dfars@osd.mil.* Include OMB Control Number 0704–0259 in the subject line of the message.
- *Fax:* 703–602–7887.
- *Mail:* Defense Acquisition Regulations System, Attn: Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.
- *Hand Delivery/Courier:* Defense Acquisition Regulations System, Crystal Square 4, Suite 200A, 241 18th Street, Arlington, VA 22202–3402.

Comments received generally will be posted without change to *http://www.regulations.gov*, including any personal information provided.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Benavides, 703–602–1302. The information collection requirements addressed in this notice are available on the World Wide Web at: *http://www.acq.osd.mil/dpap/dars/dfarspgi/current/index.html.* Paper copies are available from Mr. Michael Benavides, OUSD (AT&L) DPAP (DARS), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 216, Types of Contracts, and related clauses at DFARS 252.216–7000, Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products; DFARS 252.216–7001, Economic Price Adjustment—Nonstandard Steel Items; and DFARS 252.216–7003, Economic Price Adjustment-Wage Rates or Material Prices Controlled by a Foreign Government; OMB Control Number 0704–0259.

Needs and Uses: The clauses at DFARS 252.216–7000, 252.216–7001, and 252.216–7003 require contractors with fixed-price economic price adjustment contracts to submit information to the contracting officer regarding changes in established material prices or wage rates. The contracting officer uses this information to make appropriate adjustments to contract prices.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 1,564.

Number of Respondents: 197.
Responses per Respondent: Approximately 2.
Annual Responses: 390.
Average Burden per Response: Approximately 4 hours.
Frequency: On occasion.

Summary of Information Collection

Paragraph (c) of the clause at DFARS 252.216–7000 requires the contractor to notify the contracting officer of the amount and effective date of each decrease in any established price. Paragraph (d) of the clause permits the contractor to submit a written request to the contracting officer for an increase in contract price.

Paragraph (f)(2) of the clause at DFARS 252.216–7001 requires the contractor to furnish a statement identifying the correctness of the established prices and employee hourly earnings that are relevant to the computation of various indices. Paragraph (f)(3) of the clause requires the contractor to make available, upon the request of the contracting officer, all records used in the computation of labor indices.

Paragraph (b)(1) of the clause at DFARS 252.216–7003 permits the contractor to provide a written request for contract adjustment based on increases in wage rates or material prices that are controlled by a foreign government. Paragraph (c) of the clause requires the contractor to make available its books and records that support a requested change in contract price.

Michele P. Peterson,
Editor, Defense Acquisition Regulations System.

[FR Doc. E8–9854 Filed 5–2–08; 8:45 am]
BILLING CODE 5001–08–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare a Programmatic Environmental Impact Statement (PEIS) for the Proposed Geothermal Development Program, Naval Air Facility El Centro, Imperial County, CA and To Announce Public Scoping Meetings

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to section (102)(2)(c) of the National Environmental Policy Act (NEPA) of 1969, the regulations implemented by the Council on Environmental Quality (40 CFR parts 1500–1508), and the Department of the Navy NEPA regulation (32 CFR part 775), the Department of the Navy (Navy) announces its intent to prepare a Programmatic Environmental Impact Statement (PEIS) for a proposed geothermal development program, which would include potential development and utilization of geothermal resources located beneath approximately 3,110 acres of Navy lands at Naval Air Facility (NAF) El Centro, California in the Superstition Mountain area in western Imperial County, California (the ''Project Area''). The Project Area incorporates a very small portion of the Target 101 Shade Tree area which is located 8 miles northwest of NAF El Centro. The geothermal development program would potentially include field exploration, field development, resource utilization, and field closure.

The study will encompass a 2,830-acre parcel of adjacent Department of Interior; Bureau of Land Management (BLM) managed land as necessary to support the proposed Navy action. The BLM will be a cooperating agency in preparing this PEIS. Development of geothermal resources beneath Navy lands in the Project Area would be accomplished by means of a public-private venture capital arrangement between the Navy and an energy developer. Geothermal development will occur after completion of additional site-specific environmental analysis under NEPA.

The Navy will hold public scoping meetings for the purpose of further identifying the scope of issues to be addressed in the PEIS. Federal, State, and local agencies and the public that may be interested in or affected by the Navy's decision for the proposed action are invited to participate in the scoping process for the PEIS. Comments are being solicited to help identify significant issues or concerns related to the proposed action, determine the scope of issues to be addressed in the PEIS, and identify and refine alternatives to the proposed action.

DATES: The Navy will conduct public scoping meetings in El Centro, CA and San Diego, CA to encourage and facilitate public participation in the PEIS process and to receive oral and/or written comments. The public scoping meetings will be conducted in English and will be held in an open house format with a brief presentation to describe the proposed action, geothermal development, anticipated environmental impacts, and the PEIS process. Navy representatives will be available to answer questions. Both comment sheets and a recorder will be made available to document individual comments received at the public scoping meetings scheduled below:

1. Wednesday, May 28, 2008, 6 p.m. to 8 p.m., County Center II, 2895 S. Fourth Street, Room B, El Centro, CA;
2. Thursday, May 29, 2008, 6 p.m. to 8 p.m., Handlery Hotel and Resort, 950 Hotel Circle North, Crystal Ballroom, San Diego, CA.

The time and location of the public scoping meetings will be announced in the local news media. The public scoping period will extend for 60 days after the publication of this notice, from May 5 to July 5, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Steven Bjornstad, Geothermal Program Office (ESC–25), Naval Air Weapons Station, 429 East Bowen Road, Mail Stop 4011, China Lake, CA 93555–6108, telephone: 760–939–4048, fax: 760–939–2449, E-mail: *steven.bjornstad@navy.mil.*

SUPPLEMENTARY INFORMATION: The purpose of the proposed action is to initiate a geothermal development program to produce electricity from non-hydrocarbon based power generation on Navy lands. The need for the action arises from national policy and Congressional direction. Strong rationale supports development of a secure, low-cost energy supply for military bases to cope with energy shortages and forced allocations of fossil fuel resources without affecting mission capability. The proposed action is to initiate a geothermal development program on Navy lands in the Project Area. The proposed action would not involve any specific surface disturbance in the Project Area. Geothermal development would only occur after completion of additional site-specific environmental analysis under NEPA.

Based upon available geothermal development results in the surrounding area and field investigation research conducted at the site (including geophysical, geological, geochemical and petrophysical field data acquisition and analysis), the Navy assumes that geothermal development would not exceed 35 megawatts (MW) of electrical power generation. Additional geothermal development to increase power generation beyond 35 MW is not anticipated, but if proposed, will be covered in subsequent site-specific environmental analysis under NEPA.

Development of a geothermal facility to generate 35 MW of electrical power would require drilling up to 18 production and injection wells from multi-well pads. It is anticipated that 30 acres of land for well pads, 41 acres for roads, 6 acres for pipelines, 7 acres for the power plant, and 121 acres for

transmission lines (totaling 205 acres) would be disturbed as a result of development of such a facility. Again, additional site-specific NEPA analysis, subsequent to the planned PEIS, would be required prior to construction of any facilities.

The proposed action was developed based upon national and Department of Defense laws, directives, and policies. Successful implementation of the proposed action would be the first step to provide additional non-hydrocarbon based power generation that will help the Navy meet its renewable energy goals established by the President of the United States, the Secretary of Defense, and the Secretary of Navy. Development would be undertaken by a third-party contractor using a Public/Private Venture contracting mechanism. This business model has been successfully demonstrated with other geothermal projects.

The Navy considered a range of alternatives and has developed preliminary alternatives based on issues, concerns, and opportunities identified from previous experience with geothermal development on Navy lands, public scoping comments, collaboration with interdisciplinary professionals from the Navy and BLM, and collaboration with interested agencies. Three alternatives are expected to be considered in this PEIS at this time:

1. Initiate Geothermal Development Program in Project Area;
2 Initiate Geothermal Development Program in Reduced Project Area;
3. No Action Alternative.

Additional or revised alternatives may be developed out of the impact analysis and might be designed to avoid or reduce adverse impacts while still meeting the purpose and need for the proposed action. As an example, an alternative might be developed to avoid possible land use conflicts, or to prevent ultimate development near areas of sensitive resources.

The PEIS will address potential direct, indirect, short term, long term, and cumulative impacts to the human and natural environment, to include potential impacts to topography, geology, soils, water resources, biological resources, air quality, noise, infrastructure and utilities, traffic, cultural resources, land use, socioeconomics, environmental justice, and hazardous waste and materials.

The Navy is initiating the scoping process to identify community concerns and issues that should be addressed in the PEIS. The Navy is inviting written comments and suggestions on the scope of the analysis for the PEIS. Agencies and the public are encouraged to provide written comments in addition to, or in lieu of, oral comments at scheduled public scoping meetings. Comments should clearly describe specific issues or topics that the PEIS should address. Written comments must be postmarked by midnight July 5, 2008 and should be submitted to: Mr. Steven Bjornstad, Geothermal Program Office (ESC–25), Naval Air Weapons Station, 429 East Bowen Road, Mail Stop 4011, China Lake, CA 93555–6108. Comments will also be accepted by midnight July 5, 2008 on the project Web site at *http://www.superstitionmountaineis.com.*

Dated: April 30, 2008.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–9843 Filed 5–2–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID: USN–2008–0039]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Department of the Navy is amending a system of records notice in its existing inventory of record systems subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective without further notice on June 4, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Department of the Navy, PA/FOIA Policy Branch, Chief of Naval Operations (DNS–36), 2000 Navy Pentagon, Washington, DC 20350–2000.

FOR FURTHER INFORMATION CONTACT: Mrs. Doris Lama at (202) 685–6545.

SUPPLEMENTARY INFORMATION: The Department of the Navy systems of records notices subject to the Privacy Act of 1974, (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The specific changes to the record system being amended are set forth below followed by the notice, as amended, published in its entirety. The proposed amendments are not within the purview of subsection (r) of the Privacy Act of 1974, (5 U.S.C. 552a), as amended, which requires the submission of a new or altered system report.

Dated: April 29, 2008.

Patricia Toppings,

OSD Federal Register Liaison Officer, Department of Defense.

N12950–3

SYSTEM NAME:

Employee Benefits Records (September 20, 1993, 58 FR 48852).

CHANGES:

Delete ''N12950–3'' and replace with ''N04066–7''.

SYSTEM NAME:

Add ''NEXCOM'' in front of entry.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 5013, Secretary of the Navy and E.O. 9397 (SSN).''

* * * * *

SAFEGUARDS:

Delete entry and replace with ''Password controlled system, file, and element access based on predefined need-to-know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Destroy after GAO audit or when 6 years old, whichever is sooner.''

* * * * *

NOTIFICATION PROCEDURE:

Delete paragraph 2 and replace with ''The request must contain the individual's full name, Social Security Number, and activity where last employed.''

RECORD ACCESS PROCEDURES:

Add paragraph 2 that reads ''The request must contain the individual's full name, Social Security Number, and activity where last employed.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individual, supervisor, employee's physician and/or insurance carrier's physician.''

* * * * *

N04066–7

SYSTEM NAME:

NEXCOM Employee Benefits Records.

SYSTEM LOCATION:

Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724 (for all Navy Exchanges).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian employees and former civilian employees with the Navy Exchange Service Command and Navy Exchanges located worldwide. Payroll and benefits information for current and former civilian employees of Coast Guard exchanges, clubs and messes.

CATEGORIES OF RECORDS IN THE SYSTEM:

Leave accrual reports; earnings records; insurance records and reports regarding property damage, personal injury or death, group life, disability, medical and retirement plan records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 5013, Secretary of the Navy and E.O. 9397 (SSN).

PURPOSE(S):

To record contributions to benefit plans; to process all insurance claims; to calculate retirement benefits upon request of employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

To the insurance carriers and the U.S. Department of Labor, Bureau of Employees Compensation to process employee compensation claims.

The ''Blanket Routine Uses'' that appear at the beginning of the Navy's compilation of systems notices also apply to this system. Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

The media in which these records are maintained vary, but include: Computer records (Local Area Network (LAN) File Server); card files; file folders; ledgers; microfiche; and printed reports.

RETRIEVABILITY:

Name and/or Social Security Number and employee payroll number.

SAFEGUARDS:

Password controlled system, file, and element access based on predefined need-to-know. Physical access to terminals, terminal rooms, buildings and activities' grounds are controlled by locked terminals and rooms, guards, personnel screening and visitor registers.

RETENTION AND DISPOSAL:

Destroy after GAO audit or when 6 years old, whichever is sooner.

SYSTEM MANAGER(S) AND ADDRESS:

Policy Official: Commander, Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724.

Record Holder Manager: Risk Management and Workers Compensation Branch (TD2); Insurance/Employee Benefits Branch (HRG4), Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Commander, Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724.

The request must contain the individual's full name, Social Security Number, and activity where last employed.

RECORD ACCESS PROCEDURES:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Commander, Navy Exchange Service Command, 3280 Virginia Beach Boulevard, Virginia Beach, VA 23452–5724.

The request must contain the individual's full name, Social Security Number, and activity where last employed.

CONTESTING RECORD PROCEDURES:

The Navy's rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Secretary of the Navy Instruction 5211.5; 32 CFR part 701; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Individual, supervisor, employee's physician and/or insurance carrier's physician.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–9804 Filed 5–2–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER07–1289–002; ER07–1289–003; ER07–1289–004; ER07–1289–005]

ISO New England Inc.; Notice Shortening Response Time

April 24, 2008.

On April 22, 2008, New England Power Pool Participants Committee, ISO New England Inc., MEPCO H.Q. Energy Services (U.S.), Inc. and the Participating Transmission Owners Administrative Committee (collectively, Joint Movants) filed a Joint Emergency Motion to Establish Hearing Procedures in the above-referenced proceeding (April 22 Motion). Included in the filing was a request to shorten the period for submission of answers to the Joint Movants' motion to April 25, 2008. On April 23, 2008, Casco Bay Energy Company, LLC, filed an answer opposing the Joint Movants' request to shorten the response period.

By this notice, the request to establish April 25, 2008 as the date for filing answers to the April 22 Motion is denied. However, we will shorten the response period to and including May 2, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9795 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12557–001]

SBER Royal Mills, LLC; Notice of Application Accepted for Filing; Soliciting Motions To Intervene and Protests; Ready for Environmental Analysis; Soliciting Comments, Terms and Conditions, Recommendations, and Prescriptions; Establishing an Expedited Schedule; and Waiving Scoping

April 25, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Exemption From Licensing.

b. *Project No.:* P–12557–001.

c. *Date Filed:* December 12, 2007.

d. *Applicant:* SBER Royal Mills, LLC.

e. *Name of Project:* Royal Mills Hydroelectric Project.

f. *Location:* On the South Branch Pawtuxet River, in the town of West Warwick, Kent County, Rhode Island. This project does not occupy federal lands.

g. *Filed Pursuant to:* Public Utilities Regulatory Policies Act of 1978, 16 U.S.C. 2705, 2708.

h. *Applicant Contact:* Quentin Chafee, Development Director, Struever Bros. Eccles & Rouse, Inc., 166 Valley Street, Building 6M, Suite 103, Providence, RI 02909, (401) 574–2100, *Q.Chafee@sber.com.*

i. *FERC Contact:* Steve Kartalia, *Stephen.Kartalia@ferc.gov*, (202) 502–6131.

j. *Deadline for filing motions to intervene and protests, comments, terms and conditions, recommendations, and prescriptions:* 60 days from the issuance of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on 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.

Motions to intervene, protests, comments, terms and conditions, recommendations, and prescriptions may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's web site (*http://www.ferc.gov*) under the ''eFiling'' link.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. Project Description: The Royal Mills Hydroelectric Project would consist of the following facilities: (1) An existing 110-foot-long by 21-foot-high granite block dam; (2) an existing 3.8-acre reservoir; (3) an existing 150-foot-long by 40-foot-wide power canal; (4) an existing powerhouse containing one single new cross-flow turbine generating unit with total installed generating capacity of 225 kilowatts (kW); and (5) appurtenant facilities. The restored project would have an estimated average annual generation of 1,000,000 kilowatt-hours. The dam and existing project facilities are owned by the applicant.

m. A copy of the application is on file with the Commission and is available for public inspection. This 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 filed to access the documents. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676 or for TTY, contact (202) 502–8659. A copy is also available for inspection and reproduction at the address in item h above.

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.

n. *Procedural schedule and final amendments:* We intend to substitute the pre-filing and post-filing consultation that has occurred on this project for our standard National Environmental Policy Act scoping process. Commission staff propose to issue a single environmental assessment rather than issue a draft and final EA. Staff intend to give at least 30 days for entities to comment on the EA, and will consider all comments received on the EA before final action is taken on the exemption application.

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9779 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 4306–017]

City of Hastings, MN; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Fishway Prescriptions

April 28, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 4306–017.

c. *Date Filed:* April 24, 2008.

d. *Applicant:* City of Hastings, Minnesota.

e. *Name of Project:* Mississippi River Lock and Dam No. 2.

f. *Location:* The project would be located on the Mississippi River in the City of Hastings, which is located in Dakota County, Minnesota. The project would use the U.S. Army Corps of Engineers owned Lock and Dam No. 2. The proposed hydrokinetic devices would be located approximately 50-feet downstream of the existing hydroelectric plant's draft tubes and would be located entirely within the existing project boundary.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* Mr. Thomas Montgomery, P.E., Public Works Director, City of Hastings, Minnesota, 1225 Progress Drive, Hastings, MN 55033–1955, (651) 480–6188, and Mr. Wayne Krouse, Hydro Green Energy, LLC, 5090 Richmond Avenue, #390, Houston, TX 77056, (877) 556–6566.

i. *FERC Contact:* Kelly Houff, (202) 502–6393, and e-mail *Kelly.Houff@ferc.gov*.

j. Deadline for filing comments, protests, motions to intervene, recommendations, preliminary terms and conditions, and fishway prescriptions is due 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice. All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–4306–017) 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. *Description of Request:* The existing licensed project consists of (1) A powerhouse containing 2 generating units rated at 2,200 kW each; (2) transmission facilities consisting of: (a) 6.6 kV generator leads; (b) two three-phase, step-up transformers; and (c) a 1,000-foot-long transmission line; and (3) appurtenant facilities.

The licensee proposes to amend the license to add: (1) Two 35 kilowatt hydrokinetic units, for a total installed capacity of 70 kilowatts, (2) two synchronous alternating current (AC) motor generating units, (3) a single 30-foot-wide by 24-foot-long floating platform or barge, which would be tethered to the existing powerhouse, dam and/or retaining wall structures, and anchored for stability. This platform would enable the hydrokinetic units to suspend from the platform and the generators to sit atop the platform, (4) a proposed 225 ampere molded case circuit breaker along with a 480-volt, three-phase feeder, which will connect the hydrokinetic units to the existing power plant distribution system, and (5) appurtenant facilities. The hydrokinetic units would have an average annual generation of 453 megawatt-hours.

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. *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, interventions, recommendations, terms and conditions, and fishway prescriptions 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.

o. *Filing and Service of Responsive Documents:* All filings must (1) Bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' '' TERMS AND CONDITIONS,'' or '' FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, recommendations, terms and conditions or prescriptions should relate to project works which are the subject of the license amendment. Agencies may obtain copies of the application directly from the applicant. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

p. As provided for in 18 CFR 4.34(b)(5)(i), a license applicant must file, no later than 60 days following the date of issuance of this notice of acceptance and ready for environmental analysis: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9808 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 349–148]

Alabama Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

April 24, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands and Waters.

b. *Project No:* 349–148.

c. *Date Filed:* April 2, 2008.

d. *Applicant:* Alabama Power Company.

e. *Name of Project:* Martin Dam Project.

f. *Location:* The proposal would be located on the Tallapoosa River, in Tallapoosa County, Alabama.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Keith Bryant, APC Hydro Services, 600 18th Street North, Birmingham, AL; (205) 257–1403.

i. *FERC Contact:* Gina Krump, Telephone (202) 502–6704, and e-mail: *Gina.Krump@ferc.gov*.

j. *Deadline* for filing comments, motions to intervene, and protest: May 27, 2008.

All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all interveners filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervener 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. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* Alabama Power Company is seeking Commission approval to issue a permit to Harbor Pointe Marina (HPM) to add 20 floating boat slips and 23 floating personal watercraft (PWC) docks to its existing boat dock facilities. HPM currently has 146 floating boat slips, 12 floating PWC docks and boat launch facilities. No fill, excavation or other ground disturbing activities are proposed. The proposed facilities would serve the residents of the Villas on the Harbor community development located outside the project boundary.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's 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. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 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. *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. 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.

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.

q. 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 at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9796 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. CP08–152–000; CP01–23–006; PF07–11–000]

North Baja Pipeline, LLC; Notice of Application

April 24, 2008.

Take notice that on April 15, 2008, North Baja Pipeline, LLC (North Baja), 1400 SW., Fifth Avenue, Suite 900, Portland, Oregon 97201, filed in the above dockets, an application, pursuant to sections 7 and 3 of the Natural Gas Act (NGA), for a certificate authorizing the construction and operation of the Yuma Lateral and an amendment to North Baja's existing Presidential Permit to allow the construction of additional facilities at the United States-Mexico border for the purposes of importing natural gas, including revaporized liquefied natural gas (LNG) from Mexico. North Baja's proposal is more fully described as set forth in the application that is on file with the Commission and open to public inspection. 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. 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.

Specifically, North Baja seeks authorization to construct: (1) A new direct interconnection with the facilities of Gasoducto Bajanorte at the United States-Mexico border; (2) a new, 3.27 mile, 12-inch diameter pipeline extending from the international border a the Colorado River to the Yucca Power Plant in Yuma, Arizona; and (3) the Yuma #1 Delivery Meter Station. North Baja estimates that the proposed facilities will cost $8,533,914. North Baja states that the purpose of the facilities is to provide 81,250 Dth per day of firm natural gas transportation service to the Yucca Power Plant owned by Arizona Public Service Company. North Baja proposes new incremental rates under Rate Schedule LAT–1 for service on the Yuma Lateral.

Any questions regarding this application should be directed to Henry P. Morse, Jr., General Manager, North Baja Pipeline, LLC, 1400 SW., Fifth Avenue, Suite 900, Portland, Oregon 97201, at (503) 833–4108.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: Complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

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 commentors 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 commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors 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.

The Commission strongly encourages electronic filings of comments, 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.

On June 21, 2007, the Commission staff granted North Baja's request to utilize the Pre-Filing Process and assigned Docket No. PF07–11–000 to staff activities involving CIG's proposal. Now, as of the filing of North Baja's application on April 15, 2008, the Pre-Filing Process for this project has officially concluded. And while the PF Docket Number is now closed, all of the information contained in the Pre-Filing Process will become part of the certificate proceeding. From this time forward, CIG's proceeding will be conducted in Docket Nos. CP08–152–000 and CP01–23–006, as noted in the caption of this Notice. All future correspondence should refer to these CP docket numbers only

Comment Date: May 15, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9797 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–33–000]

Dominion Transmission, Inc.; Notice of Availability of the Environmental Assessment for the Proposed Hub I Project

April 28, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) on the natural gas pipeline and compression facilities proposed by Dominion Transmission, Inc. (Dominion) in the above-referenced docket. Dominion's proposal (the Hub I Project) is to construct a 4,700 horsepower compressor station and about 2.0 miles of 20-inch-diameter pipeline (in two segments) in Westmoreland County, Pennsylvania.

The EA was prepared to satisfy the requirements of the National Environmental Policy Act of 1969. The staff concludes that approval of the proposed project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The EA assesses the potential environmental effects of the construction and operation of the proposed Hub I Project. The purpose of the project is to provide about 200 million dekatherms per day (MMDt/d) of service in the summer months and 150 MMDt/d in the winter months.

The EA has been placed in the public files of the FERC. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street, NE., Room 2A, Washington, DC 20426.

Copies of the EA have been mailed to federal, state, and local agencies; newspapers and libraries in the project area; parties to this proceeding; and those who have expressed an interest in this project by returning the January 11, 2008 *Notice of Intent to Prepare an Environmental Assessment for the Proposed Hub I Project and Request for Comments on Environmental Issues* Mailing List Form.

Any person wishing to comment on the EA may do so. To ensure consideration prior to a Commission decision on the proposal, it is important that we receive your comments as specified below. 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 comments to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of Gas Branch 1, PJ–11.1;
- Reference Docket No. CP08–33–000; and
- Mail your comments so that they will be received in Washington, DC on or before May 28, 2008.

The Commission strongly encourages electronic filing of any comments. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the link to ''*Documents and Filings*'' and ''e-Filing.'' eFiling is a file attachment process and requires that you prepare your submission in the same manner as you would if filing on paper, and save it to a file on your hard drive. New eFiling users must first create an account by clicking on ''*Sign up*'' or ''*eRegister*.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.'' In addition, there is a ''*Quick Comment*'' option available, which is an easy method for interested persons to submit text only comments on a project. The *Quick-Comment user Guide* can be viewed at *http://www.ferc.gov/docs-filing/efiling/quick-comment-guide.pdf*. Quick Comment does not require a FERC eRegistration account; however, you will be asked to provide a valid e-mail address. All comments submitted under either eFiling or the Quick Comment option are placed in the public record for the specified docket or project number(s).

Comments will be considered by the Commission but will not serve to make the commentor a party to the proceeding. Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214). Only intervenors have the right to seek rehearing of the Commission's decision. Anyone may intervene in this proceeding based on this EA. You must file your request to intervene as specified above.[1] (You do not need intervenor status to have your comments considered).

Additional information about the project is available from the Commission's Office of External Affairs,

[1] Interventions may also be filed electronically via the Internet in lieu of paper. See the previous discussion of filing comments electronically.

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 (i.e., CP08–33). 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 (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 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 notifications of these filings, document summaries and direct links to the documents. Go to the eSubscription link on the FERC Internet Web site.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9809 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 12667–003]

City of Hamilton, Ohio; Notice of Availability of Environmental Assessment

April 25, 2008.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Energy Projects has reviewed the application for an Original Major License for the Meldahl Hydroelectric Project.

The project would be located at the Captain Anthony Meldahl Locks and Dam and would occupy about 81 acres of federal lands administered by the Huntington District of the U.S. Army Corps of Engineers. Staff has prepared an environmental assessment (EA) for the project.

The EA contains staff's analysis of the potential environmental effects of the project and concludes 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 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.

Any comments should be filed within 30 days from the date of this notice and should be addressed to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please affix Project No. 12667–003 to all comments. Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

For further information, please contact Peter Leitzke at 202–502–6059 or at *peter.leitzke@ferc.gov.*

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9780 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF07–10–000]

LNG Development Company, LLC and Oregon Pipeline Company; Supplemental Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Oregon LNG Terminal and Pipeline Project, Request for Comments on Environmental Issues and Notice of Public Meetings

April 28, 2008.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) is in the process of evaluating the Oregon LNG Terminal and Pipeline Project involving the construction and operation of facilities proposed by LNG Development Company, LLC and Oregon Pipeline Company (collectively referred to as Oregon LNG). The facilities would be located in northern Oregon and consist of a liquefied natural gas (LNG) import terminal in Warrenton, Oregon, and an associated 121-mile-long natural gas pipeline from the LNG import terminal southeastward across Clatsop, Tillamook, Columbia, Washington, Yamhill, Marion, and Clackamas Counties, Oregon, to an interconnection with existing natural gas pipelines systems near Molalla in Clackamas County, Oregon.

As a part of this evaluation, FERC staff will prepare an environmental impact statement (EIS) that will address the environmental impacts of the project. The Commission will use the EIS in its decision-making process to determine whether or not to authorize the project. Although the FERC will be the lead federal agency in the preparation of an EIS that will satisfy the requirements of the National Environmental Policy Act (NEPA), the U.S. Coast Guard and U.S. Army Corps of Engineers will serve as cooperating agencies during preparation of the EIS.

Oregon LNG has not yet filed a formal application with the FERC. However, we [1] have initiated a NEPA review under the FERC's 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. As part of this process, the FERC issued a *Notice of Intent to Prepare an Environmental Impact Statement for the Proposed Oregon LNG Terminal and Pipeline Project, Request for Comments on Environmental Issues and Notice of Public Meetings* (NOI) on August 24, 2007. Since that NOI was issued, Oregon LNG has changed its proposed project. Specifically, the routing of the pipeline route has changed and the project now includes a 9.4-mile-long pipeline lateral as well as an electric compressor station. Because of these changes, the FERC issued this supplemental NOI. Through the original and supplemental NOIs, we are seeking input from the public in preparing the EIS for the project.

This supplemental NOI explains the scoping process we will use to gather information on the project from the public and interested agencies. Your input will help identify the issues that need to be evaluated in the EIS. Comments on the project 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 NOI.

[1] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the FERC's Office of Energy Projects.

Please note that comments on this NOI are requested by June 12, 2008.

In lieu of sending written comments, we invite you to attend the public scoping meetings scheduled as follows:

Tuesday, May 20, 2008, 7 p.m. Banks High School Gymnasium, 450 S. Main St., Banks, OR 97106.

Wednesday, May 21, 2008, 7 p.m. Warrenton High School Gymnasium, 1700 SE Main St., Warrenton, OR 97146.

Thursday, May 22, 2008, 7 p.m. Woodburn High School Lectorium, 1785 N. Front Street, Woodburn, OR 97071.

This supplemental NOI is being sent to Federal, state, and local government agencies; elected officials; potentially affected landowners; environmental and public interest groups; Indian tribes and regional Native American organizations; commentors and 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.

Summary of the Proposed Project

Oregon LNG proposes to construct and operate an LNG import terminal and storage facility, and associated natural gas sendout pipeline with a capacity to deliver up to 1.5 billion cubic feet per day. Specifically, Oregon LNG proposes the following primary project components:

- A marine facility, including LNG unloading equipment and one ship berth capable of handling an average of 100 LNG carrier ships per year (the capacity of the ships would range from 70,000 up to 260,000 cubic meters (m^3) per ship);
- Interconnecting facilities including piping, electrical, and control systems;
- A LNG spill containment and collection system;
- Three full containment LNG storage tanks, each with a nominal usable storage capacity of 160,000 m^3;
- Vapor handling, re-gasification, and sendout systems;
- Utilities, telecommunications, and other supporting systems;
- Administrative, control room, warehouse, security, and other buildings and enclosures;
- Interconnecting roadways and civil works;
- A 121-mile-long, 36-inch-diameter natural gas sendout pipeline extending from the LNG terminal to interconnections at Molalla Gate Station, in Clackamas County, Oregon, with other existing natural gas pipelines including the interstate natural gas pipeline system operated by Williams Northwest Pipeline Company (Williams) and the intrastate South Mist Pipeline Extension operated by Northwest Natural Gas Company (NW Natural);
- A 9.4-mile-long, 24-inch-diameter natural gas lateral pipeline extending from Oregon LNG's pipeline to pipeline facilities operated by NW Natural in northern Washington County, Oregon (the 24-inch-diameter South Mist Pipeline Extension and the 16-inch-diameter South Mist Feeder); and
- An electric compressor station located along Oregon LNG's 36-inch-diameter pipeline about 0.7 mile south of State Highway 26.

A location map depicting Oregon LNG's proposed facilities is attached to this NOI as Appendix 1.[2] These facilities and the possible environmental impacts from their construction and operation were described in detail in draft resource reports filed with the FERC between December 2007 and March 2008.

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 LNG import terminal and/or an interstate natural gas pipeline should be approved. The FERC will use the EIS to consider the environmental impacts that could result if it issues project authorizations to Oregon LNG under sections 3 and 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 EIS on the important environmental issues. With this 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, operation, and maintenance of the proposed project under these general headings:

- Geology and soils;
- Water resources;
- Aquatic resources;
- Vegetation and wildlife;
- Threatened and endangered species;
- Land use, recreation, and visual resources;
- Cultural resources;
- Socioeconomics;
- Marine transportation;
- Air quality and noise;
- Reliability and safety;
- 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; affected landowners; environmental and public interest groups; Indian tribes and regional Native American organizations; 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 NOI.

Currently Identified Environmental Issues

We have already identified issues that we think deserve attention based on our previous experience with similar projects in the region and our review of comments provided in response to the original NOI that was issued on August 24, 2007. This preliminary list of some of the major issues, which is presented below, may be revised based on your comments and our continuing analyses specific to the Oregon LNG Terminal and Pipeline Project.

- Definition of project purpose and need.
- Impact of LNG vessel traffic on other users, including commercial ships, fishing, and recreational boaters on the lower Columbia River.
- Potential impacts of dredging the turning basin and LNG ship berth on water quality and estuarine fishery resources.
- Potential impacts of the LNG terminal on residents in Warrenton and the surrounding area, including consideration of issues related to safety, noise, air quality, and visual resources.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site (excluding maps) at the ''e-Library'' link or from the Commission's Public Reference Room or call (202) 502–8371. For instructions on connecting to e-Library refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

• Potential for geological hazards, including seismic activity, to have impacts on both the proposed LNG import terminal and pipelines.
• Potential impacts of the pipelines on waterbodies and wetlands.
• Potential impacts of the pipeline on vegetation, including the clearing of forested areas and the potential for increased risk of wild fires.
• Potential impacts of the pipeline on threatened and endangered species and wildlife habitat.
• Potential impacts of the pipeline on cultural resources.
• Potential economic impacts of the project, including potential impacts on property values.
• Use of eminent domain for project development.
• Potential impacts on high-value croplands and agricultural practices in the Willamette Valley.
• Potential for cumulative impacts resulting from multiple pipeline projects in the region.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the Oregon LNG Terminal and Pipeline 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 impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please follow these instructions:

• Send an original and two copies of your letter to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
• Label one copy of your comments for the attention of OEP/DG2E/Gas Branch 2, PJ–11.2.
• Reference Docket No. PF07–10–000 on the original and both copies.
• Mail your comments so that they will be received in Washington, DC, on or before June 12, 2008.

The Commission strongly encourages electronic filing of any comments in response to this NOI. See 18 Code of Federal Regulations 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the link to ''Documents and Filings'' and ''eFiling.'' eFiling is a file attachment process and requires that you prepare your submission in the same manner as you would if filing on paper, and save it to a file on your hard drive. New eFiling users must first create an account by clicking on ''Sign up'' or ''eRegister.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.'' In addition, there is a ''Quick Comment'' option available, which is an easy method for interested persons to submit text only comments on a project. The Quick-Comment User Guide can be viewed at *http://www.ferc.gov/docs-filing/efiling/quick-comment-guide.pdf*. Quick Comment does not require a FERC eRegistration account; however, you will be asked to provide a valid e-mail address. All comments submitted under either eFiling or the Quick Comment option are placed in the public record for the specified docket or project number(s).

Once Oregon LNG formally files its application with the Commission, you may want to become an ''intervenor,'' which is an official party to the proceeding. 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

If you wish to remain on the environmental mailing list, please return the attached Mailing List Retention Form (Appendix 2 of this NOI). If you do not return this form, we will remove your name from our mailing list.

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., PF07–10) in the ''Docket Number'' field. Be sure you have selected an appropriate date range. For assistance with eLibrary, the eLibrary helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or by e-mail at *FERCOnlineSupport@ferc.gov*. The eLibrary link on the FERC website 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, Oregon LNG has established a web site for this project at *http://www.oregonlng.com*. The Web site includes a project overview, status, potential impacts and mitigation, and answers to frequently asked questions. Additionally, you can view the location of the project facilities online at: *http://www.oregonpipelinepropertysearch.com*. You can also request additional information by calling Oregon LNG directly at (503) 298–4969, or by sending an e-mail to *info@OregonLNG.com*.

Kimberly D. Bose,
Secretary.

[FR Doc. E8–9806 Filed 5–2–08; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. QF08–459–000]

Farm Fresh; Notice of Filing of Notice of Self-Certification of Qualifying Status of a Cogeneration Facility

April 24, 2008.

Take notice that on March 31, 2008, Farm Fresh, 1832 Kempsville Road, Suite 101, Virginia Beach, Virginia 23464 filed with the Federal Energy Regulatory Commission (Commission) a notice of self-certification of a facility as a qualifying cogeneration facility pursuant to 18 CFR 292.207(a) of the Commission's regulations.

The qualifying facility consisting of 600 kW diesel engine generator set. The generator operates on #2 fuel oil. The generator will be located on a concrete pad outside of the facility. A 2500 A service entrance rated ATS will be

placed on the building between the utility transformer and the building's existing service entrance switchgear. The facility is located at 2800 Raleigh Road, NE, Suite B, Wilson NC 27896.

This qualifying interconnects with Wilson Energy's electric distribution system. The facility will provide standby power and occasionally supplementary power to Farm Fresh.

A notice of self-certification does not institute a proceeding regarding qualifying facility status; a notice of self-certification provides notice that the entity making the filing has determined the Facility meets the applicable criteria to be a qualifying facility. Any person seeking to challenge such qualifying facility status may do so by filing a motion pursuant to 18 CFR 292.207(d)(iii).

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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9793 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–665–000; ER08–665–001]

Eastland Power LLC; Notice of Issuance of Order

April 25, 2008.

Eastland Power LLC (Eastland Power) 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. Eastland Power also requested waivers of various Commission regulations. In particular, Eastland Power requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Eastland Power.

On April 24, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the requests for blanket approval under Part 34 (Director's Order). 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 concerning the blanket approvals of issuances of securities or assumptions of liability by Eastland Power should file a 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). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov*.

Notice is hereby given that the deadline for filing protests is May 27, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Eastland Power 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 Eastland Power, 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 Eastland Power'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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9776 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–649–000]

EFS Parlin Holdings LLC; Notice of Issuance of Order

April 25, 2008.

EFS Parlin Holding LLC (Parlin) 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. Parlin also requested waivers of various Commission regulations. In particular, Parlin requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Parlin.

On April 23, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the request for blanket approval under Part 34 (Director's Order). 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 concerning the blanket approvals of issuances of securities or assumptions of liability by Parlin, should file a 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 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov*.

Notice is hereby given that the deadline for filing protests is May 23, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Parlin 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 Parlin, 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 Parlin'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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9775 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–692–000]

Mountain Wind Power II, LLC; Notice of Issuance of Order

April 25, 2008.

Mountain Wind Power II, LLC (Mountain Wind II) 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. Mountain Wind II also requested waivers of various Commission regulations. In particular, Mountain Wind II requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Mountain Wind II.

On April 23, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the request for blanket approval under Part 34 (Director's Order). 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 concerning the blanket approvals of issuances of securities or assumptions of liability by Mountain Wind II, should file a 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 (2007). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov*.

Notice is hereby given that the deadline for filing protests is May 23, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Mountain Wind II 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 Mountain Wind II, 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 Mountain Wind II'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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9778 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–685–000]

TransCanada Maine Wind Development Inc.; Notice of Issuance of Order

April 25, 2008.

TransCanada Maine Wind Development Inc. (TCMWD) filed an application for market-based rate authority, with an accompanying tariff. The proposed market-based rate tariff provides for the sale of energy and capacity. TCMWD also requested waivers of various Commission regulations. In particular, TCMWD requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by TCMWD.

On April 16, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the requests for blanket approval under Part 34 (Director's Order). 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 concerning the blanket approvals of issuances of securities or assumptions of liability by TCMWD, should file a 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). The Commission encourages the electronic submission of protests using the FERC Online link at *http://www.ferc.gov*.

Notice is hereby given that the deadline for filing protests is May 16, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, TCMWD 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 TCMWD, 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 TCMWD'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.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9777 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD08–4–000; Docket No. ER08–633–000]

Capacity Markets in Regions With Organized Electric Markets ISO New England, Inc.; Supplemental Notice of Technical Conference

April 25, 2008.

As announced in the Notice of Technical Conference issued on February 29, 2008, staff of the Federal Energy Regulatory Commission (Commission) will hold a technical conference on May 7, 2008. The purpose of the conference is to discuss the operation of forward capacity markets in the ISO New England, Inc. (ISO–NE) and the PJM Interconnection, LLC (PJM) regions, and to learn more about the proposals of the American Forest and Paper Association (American Forest) and Portland Cement Association (Portland Cement), and the merit of adopting such changes where appropriate, as described in the Notice of Proposed Rulemaking issued in Docket No. RM07–19–000, *et al. Wholesale Competition in Regions with Organized Electric Markets,* 73 FR 12,576 (March 7, 2008), FERC Stats. & Regs. ¶ 32,682, at P 25,153 (2008).[1] The technical conference will be held from 9 am to 5 pm (EDT), in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. All interested persons are invited to attend, and registration is not required.

The agenda for this conference, with a list of participating panelists, is attached. There will be five panels. The first panel will discuss today's long-term capacity markets: Design and early results of PJM's and ISO–NE's forward capacity markets. The second panel will discuss American Forest's financial performance obligation proposal. The third panel will discuss Portland Cement's long-term capacity proposal. The fourth and fifth panels will discuss existing and alternative capacity market designs. It is possible that the discussions may overlap with matters at issue in Docket No. ER08–633.

As previously announced, a free webcast of this event is available through *http://www.ferc.gov.* Anyone with Internet access who desires to view this event can do so by navigating to *http://www.ferc.gov*'s Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the Washington, DC, area and via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or contact Danelle Perkowski or David Reininger at 703–993–3100.

Transcripts of the meeting will be available immediately for a fee from Ace Reporting Company (202–347–3700 or 1–800–336–6646).

Commission 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 1–866–208–3372 (voice) or 202–208–1659 (TTY), or send a FAX to 202–208–2106 with the required accommodations.

For more information about this conference, please contact: David Mead, Office of Energy Market Regulation, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8028, *David.Mead@ferc.gov,* and Tina Ham, Office of the General Counsel—Energy Markets, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–6224, *Tina.Ham@ferc.gov.*

Kimberly D. Bose,

Secretary.

Agenda

Capacity Markets Technical Conference

May 7, 2008

Commission Meeting Room

9–9:10 a.m.: *Welcome from FERC Staff.*

9:10–10 a.m.: *Panel I.*

Today's Longer-Term Capacity Markets: Design and Early Results for PJM's Reliability Pricing Model (RPM) and ISO–NE's Forward Capacity Market

Panelists:

The Honorable Frederick Butler, Commissioner, New Jersey Board of Public Utilities

Andrew Ott, Vice President—Markets, PJM Interconnection, LLC

David LaPlante, Vice President, Wholesale Markets Strategy, ISO New England, Inc.

Denis Bergeron, Coordinator of Regional Affairs, Maine Public Utilities Commission

10–11 a.m.: *Panel II.*

American Forest's Financial Performance Obligation Proposal

Panelists:

Donald J. Sipe, Attorney, Preti, Flaherty, Beliveau & Pachios, on behalf of American Forest & Paper Association

Andrew Ott, Vice President—Markets, PJM Interconnection, LLC

David LaPlante, Vice President, Wholesale Markets Strategy, ISO New England Inc.

Dr. Jonathan A. Lesser, Partner, Bates White LLC, on behalf of the Electric Power Supply Association

Daniel Allegretti, Vice President and Director of Wholesale Energy Policy, Constellation Energy Group, Inc.

11–11:15 a.m.: *Break.*

11:15 a.m.–12:15 p.m.: *Panel III.*

Portland Cement's Longer-Term Forward Capacity Proposal

Panelists:

Paul R. Williams, President, Liberty Energy Group, Inc., on behalf of the Portland Cement Association

David LaPlante, Vice President, Wholesale Markets Strategy, ISO New England, Inc.

Andrew Ott, Vice President—Markets, PJM Interconnection, LLC

Roy Shanker, Independent Consultant, on behalf of PJM Power Providers

12:15–1:15 p.m.: *Lunch.*

1:15–3 p.m.: *Panel IV.*

Discussion on Existing and Alternative Capacity Market Designs

Panelists:

The Honorable Paul Centolella, Commissioner, Public Utilities Commission of Ohio

Dr. William W. Hogan, Raymond Plank Professor of Global Energy Policy, Harvard University

John J. Boudreau, Director, Business & Regulatory Strategy, Massachusetts Municipal Wholesale Electric Company

James F. Wilson, Principal, LECG LLC

Robert M. Loughney, Attorney, Couch White, LLP, on behalf of Multiple Intervenors and Connecticut Industrial Energy Consumers

Peter Fuller, Director, Regulatory & Market Affairs, New England, NRG Energy, Inc.

Raymond DePillo, Vice President, Power Operations & Trading, PSEG Energy Resources & Trade

[1] In addition to its filing on September 14, 2007, in Docket No. RM07–19, which described its proposal, American Forest made an informational filing on April 3, 2008, in Docket No. AD08–4.

Andrew Ott, Vice President—Markets, PJM Interconnection, LLC
David LaPlante, Vice President, Wholesale Markets Strategy, ISO New England Inc.
Marie Pieniazek, Vice President, Government & Regulatory Affairs, Energy Curtailment Specialists, Inc.

3–3:15 p.m.: *Break.*
3:15–5 p.m.: *Panel V.*

Discussion continues

Panelists:

Randy Rismiller, Manager of Federal Energy Programs, Illinois Commerce Commission
Michael Allman, President & CEO, Sempra Generation
Joseph E. Bowring, Market Monitor, PJM Interconnection, LLC
Randall Speck, Attorney, Kaye Scholer LLP, on behalf of the Maryland Public Service Commission and the Connecticut Department of Public Utility Control
Donald J. Sipe, Attorney, Preti, Flaherty, Beliveau & Pachios, on behalf of American Forest & Paper Association
Robert G. Ethier, Director, Resource Adequacy and Chief Economist, ISO New England, Inc.
Robert A. Weishaar, Jr., McNees Wallace & Nurick LLC, on behalf of PJM Industrial Customer Coalition and NEPOOL Industrial Customer Coalition
Dr. Eric C. Woychik, Vice President of Regulatory Affairs, Comverge, Inc.
Roy Shanker, Independent Consultant, on behalf of PJM Power Providers
Steve Elsea, Director of Energy Services, Leggett & Platt, Inc.

[FR Doc. E8–9781 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2230–036]

City and Borough of Sitka, AK; Notice of Request To Use Alternative Procedures in Preparing a License Amendment Application

April 28, 2008.

Take notice that the following request to use alternative procedures to prepare a license amendment application has been filed with the Commission.

a. *Type of Application:* Request to use alternative procedures to prepare a license amendment application.

b. *Project No.:* 2230–036.

c. *Date Filed:* March 11, 2008.

d. *Applicant:* City and Borough of Sitka, Alaska.

e. *Name of Project:* Blue Lake Project.

f. *Location:* On Sawmill Creek, in Borough of Sitka, Alaska. The project occupies 1,628.1 acres of federal lands within Tongass National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C 791(a)–825(r).

h. *Applicant Contact:* Charlie Walls, Utility Director, City and Borough of Sitka Electric Department, 105 Jarvis St., Sitka, Alaska 99835, (907) 747–1870, *charlie@cityofsitka.com.*

i. *FERC Contact:* William Guey-Lee, 202–502–6064, *william.gueylee@ferc.gov*

j. *Deadline for Comments:* May 28, 2008.

All documents (original and eight copies) should be filed with: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

k. The existing project generally consists of a 211-foot-high, 256-foot-long concrete arch dam, impounding the 1,225 acre Blue Lake reservoir; a 7,110 foot-long power conduit; and a powerhouse containing two 3,000 kilowatt units. The applicant proposes to add a third generating unit near the existing powerhouse, and raise the existing dam by as much as 83 feet.

l. A copy of the request to use alternative procedures 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. A copy is also available for inspection and reproduction at the address in item h above.

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.

m. Applicant has demonstrated that it has made an effort to contact all federal and state resources agencies, non-governmental organizations (NGO), and others affected by the project. Applicant has also demonstrated that a consensus exists that the use of alternative procedures is appropriate in this case. Applicant has submitted a communications protocol that is supported by the stakeholders.

The purpose of this notice is to invite any additional comments on Applicant's request to use the alternative procedures, pursuant to section 4.34(i) of the Commission's regulations. Additional notices seeking comments on the specific project proposal, interventions and protests, and recommended terms and conditions will be issued at a later date. Applicant will complete and file a preliminary Environmental Assessment, in lieu of Exhibit E of the application. This differs from the traditional process, in which an applicant consults with agencies, Indian tribes, NGOs, and other parties during preparation of the license application and before filing the application, but the Commission staff performs the environmental review after the application is filed. The alternative procedures are intended to simplify and expedite the licensing process by combining the pre-filing consultation and environmental review processes into a single process, to facilitate greater participation, and to improve communication and cooperation among the participants.

Applicant has met with federal and state resource agencies, NGO's, elected officials, environmental groups, and members of the public regarding the Blue Lake amendment project. Applicant intends to conduct the alternative licensing procedures process to file a license amendment application by May 2009.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9807 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–154–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

April 24, 2008.

Take notice that on April 15, 2008, Williston Basin Interstate Pipeline Company (Williston Basin), 1250 West Century Avenue, Bismarck, North Dakota 58503, filed in Docket No. CP08–154–000 a prior notice request pursuant to sections 157.205, 157.208 and 157.213 of the Commission's regulations under the Natural Gas Act (NGA) and

Williston Basin's blanket certificate issued in Docket No. CP82–487–000 for the construction, authorization, and abandonment of mainline natural gas facilities (compression and measurement) in McKenzie and Williams County, as more fully set forth in the application, which is on file with the Commission and open to public inspection. The facilities will allow Williston Basin to deliver incremental firm transportation service to shippers that signed precedent agreements resulting from an open season ended November 30, 2007. Williston Basin states that the estimated cost to construct the facilities is approximately $7,300,000. 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 TTY, (202) 502–8659.

Any questions concerning this application may be directed to Keith A. Tiggelaar, Director of Regulatory Affairs, Williston Basin Interstate Pipeline Company, 1250 West Century Avenue, Bismarck, North Dakota 58503, or telephone (701) 530–1560 (e-mail *keith.tiggelaar@wbip.com*).

Any person or the Commission's Staff may, within 60 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and, pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a) (1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov*) under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–9794 Filed 5–2–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Western Area Power Administration

2015 Resource Pool

AGENCY: Western Area Power Administration, DOE.

ACTION: Notice of Proposed 2015 Resource Pool Size and Revised Eligibility Criteria.

SUMMARY: The Western Area Power Administration (Western), a Federal power marketing administration of the U.S. Department of Energy (DOE), published its 2004 Power Marketing Plan (Marketing Plan) for Western's Sierra Nevada Customer Service Region (SNR) in the **Federal Register** on June 25, 1999 (64 FR 34417). The Marketing Plan specifies the terms and conditions under which Western will market power from the Central Valley Project (CVP) and the Washoe Project beginning January 1, 2005, and continuing through December 31, 2024. The Marketing Plan provides for a 2015 Resource Pool of up to 2 percent of SNR's marketable power resources. The 2015 Resource Pool will be available for power allocations to preference entities that meet the Eligibility Criteria. This notice begins the public process to establish the resources available and to revise the Eligibility Criteria provided in the Marketing Plan for the 2015 Resource Pool. Once Western establishes the final amount of power to be made available under the 2015 Resource Pool and the associated Eligibility Criteria, preference entities who wish to apply for an allocation of power from SNR must submit formal applications in response to Western's Call for 2015 Resource Pool Applications to be published under a separate notice.

DATES: Entities interested in submitting comments on Western's Proposed 2015 Resource Pool size and revised Eligibility Criteria must submit comments to the SNR office at the address below. To ensure consideration, comments must be received by the end of the comment period which closes at 4 p.m. PST on July 7, 2008. The public comment forum date is: May 21, 2008, 1 p.m. PST, Folsom, CA. Please refer to Western's Web page *http://www.wapa.gov/sn/marketing/2015ResourcePool.asp* for additional information including updates to the date, time, and location of the forum.

ADDRESSES: Western will hold the public comment forum at the Lake Natoma Inn, 702 Gold Lake Drive, Folsom, CA. Written comments can be mailed to Ms. Sonja A. Anderson, Power Marketing Manager, Sierra Nevada Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, e-mail *sanderso@wapa.gov.* Oral comments must be presented at the public comment forum which will be held on May 21, 2008.

FOR FURTHER INFORMATION CONTACT: Ms. Jeanne Haas, Power Contracts and Energy Services Manager, Sierra Nevada Customer Service Region, Western Area Power Administration, 114 Parkshore Drive, Folsom, CA 95630–4710, telephone (916) 353–4438, e-mail *haas@wapa.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Marketing Plan provides that, effective January 1, 2015, Western will reduce all Customers' allocations by up to 2 percent to establish a 2015 Resource Pool. In addition, the Marketing Plan explains that as a result of a settlement, the Sacramento Municipal Utility District (SMUD) did not contribute to the 2005 Resource Pool. Beginning in 2015, SMUD's percentage will be adjusted pursuant to the Marketing Plan to be consistent with all other Existing Customers, and the percentage it did not provide to the 2005 Resource Pool will be included in the 2015 Resource Pool. Western is starting the public process for the allocation of the 2015 Resource Pool now to ensure that Customers have adequate time to secure power and delivery arrangements to start on January 1, 2015.

CVP power facilities include 11 powerplants with a maximum operating capability of about 2,044 megawatts (MW) and an estimated average annual generation of 4.6 million megawatthours (MWh). Western markets and transmits the power available from the CVP.

The Washoe Project's Stampede Powerplant has a maximum operating capability of 3.65 MW with an estimated annual generation of 10,000 MWh. The Sierra Pacific Power Company owns and operates the only transmission system available for access to the Stampede Powerplant.

Western owns the 94 circuit-mile Malin-Round Mountain, 500-kilovolt (kV) Transmission Line (an integral section of the Pacific Northwest-Pacific Southwest Alternating Current Intertie), 803 circuit miles of 230-kV transmission line, 7 circuit miles of 115-kV transmission line, and 44 circuit miles of 69-kV and below transmission line. Western also has part ownership in the 342-mile California-Oregon Transmission Project and owns the 84-mile Path 15 Upgrade Project. Many of Western's Customers have no direct

access to Western's transmission lines and receive service over transmission lines owned by other utilities.

The Marketing Plan describes how SNR will market its power resources beginning January 1, 2005, through December 31, 2024. The Marketing Plan requires Western to establish a Resource Pool and to reallocate an amount of power for the period of January 1, 2015, through December 31, 2024. This public process will determine the exact amount of power Western will reallocate and revises the Eligibility Criteria the entities must meet to qualify for an allocation of power from Western during this period. After or simultaneous to publishing its final decision on the 2015 Resource Pool size and revised Eligibility Criteria, Western will publish a Call for 2015 Resource Pool Applications in this **Federal Register** notice which will begin the formal allocation process. The Marketing Plan will continue in full force and effect and will govern the formal allocation process. However, Western will apply the revised Eligibility Criteria developed through this process for the 2015 Resource Pool. Entities interested in an allocation of power from SNR must apply pursuant to the Call for 2015 Resource Pool Applications.

Acronyms and Definitions

CRD: Contract Rate of Delivery: The maximum amount of capacity made available to a Customer for a period specified under a contract.

Customer: A preference customer who has a contract to purchase power under the Marketing Plan.

Eligibility Criteria: Conditions that must be met to qualify for an allocation.

Existing Customer: A preference customer who had a contract to purchase firm power offered under a previous allocation process or Marketing Plan that extended through December 31, 2004. Note: the definition includes those entities who succeeded in interest to an Existing Customer; e.g., if Western approved the assignment of an Existing Customer's Federal power allocation to another preference customer, the assigned Federal power falls within the definition.

Extension CRD: An Existing Customer's CRD exclusive of diversity and curtailable power and peaking/excess capacity, as it may be adjusted in accordance with the Marketing Plan.

2015 Resource Pool Size

As described in the Marketing Plan, effective January 1, 2015, Western will recalculate the percentages of all Customers. For the period of January 1, 2015, through December 31, 2024, Western will derive each Customer's new percentage in the manner described below.

Pursuant to the procedures established in the Marketing Plan, Western will determine the amount of Federal resources available for the 2015 Resource Pool in the following steps:

1. Western will adjust SMUD's allocation to be consistent with the other Existing Customers. In other words, the Marketing Plan requires Western to adjust SMUD's Base Resource percentages to equal what SMUD would have been required to contribute to the 2005 Resource Pool. Western will then adjust the ratio of each Existing Customer's Extension CRD to the total of all Existing Customers' Extension CRD. This step reflects what each Existing Customer's allocation percentage would have been beginning January 1, 2005, if not for the Settlement Agreement with SMUD. Beginning January 1, 2015, SMUD will be treated as, and included with, all of the Existing Customers.

2. Once the Existing Customers' allocation percentages have been adjusted as indicated in paragraph 1 above, Western will then reduce each Existing Customer's right to purchase the Base Resource by 4 percent. This step reflects the amount that the Existing Customers would have been required to contribute to the 2005 Resource Pool if not for the Settlement Agreement with SMUD.

3. Finally, Western proposes to reduce all Customers' right to purchase the Base Resource by an additional 2 percent to create the 2015 Resource Pool. To clarify, this 2 percent reduction applies to all Customers, including those that received an allocation under the Marketing Plan through the 2005 Resource Pool.

The Marketing Plan provides for Western to reduce all Customers' allocations by up to 2 percent. Western is proposing to reduce all Customers' Base Resource percentage by 2 percent to provide for a 2015 Resource Pool sufficient to promote wide-spread use of Federal power. Through this **Federal Register** notice, Western is seeking comments on the proposed 2 percent reduction in its Customers' allocations.

Revised Eligibility Criteria

The Marketing Plan established Eligibility Criteria to apply to all applicants seeking a resource pool allocation, including the following:

> Existing Customers may apply for a resource pool allocation if their Extension CRD, set forth in Appendix A [of the Marketing Plan **Federal Register** 64 FR 34417], is not more than 15 percent of their peak load in the calendar year prior to the Call for Applications, and not more than 10 MW.

Western is proposing to delete the paragraph above from its Eligibility Criteria. Western believes that this criterion may be too restrictive to ensure full subscription of its resources. Further, the 2015 Resource Pool is based on a percentage of the Base Resource. The 2005 Resource Pool was determined from an Extension CRD which is no longer applicable. Western seeks comments on the change it is proposing to the Eligibility Criteria applicable under the Marketing Plan for applicants seeking an allocation of the 2015 Resource Pool.

Proposed 2015 Resource Pool Size and Revised Eligibility Criteria

The proposed 2015 Resource Pool size and revised Eligibility Criteria are preliminary and may be changed based on comments received. This **Federal Register** notice formally requests comments related to Western's proposals. Western will respond to comments received on the 2015 Resource Pool size and revised Eligibility Criteria and publish its final decision on the 2015 Resource Pool size and revised Eligibility Criteria after the end of the public comment period. After, or simultaneous to, publishing its final decision on the 2015 Resource Pool size and revised Eligibility Criteria, Western will publish a Call for Application in the **Federal Register** which will begin the formal allocation process. The Marketing Plan will continue in full force and effect and will govern the formal allocation process. However, Western will apply the revised Eligibility Criteria developed through this process for the 2015 Resource Pool.

Authorities

The Marketing Plan for marketing power by SNR after 2004, published in the **Federal Register** (64 FR 34417) on June 25, 1999, was established pursuant to the Department of Energy Organization Act (42 U.S.C. 7101–7352); the Reclamation Act of June 17, 1902 (ch. 1093, 32 Stat. 388), as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939 (43 U.S.C. 485(c)); and other acts specifically applicable to the projects involved. This action falls within the Marketing Plan and, thus, is covered by the same authority.

Regulatory Procedure Requirements

Environmental Compliance

In compliance with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321, *et seq.*); the Council on Environmental Quality Regulations for implementing NEPA (40 CFR parts 1500–1508); and DOE NEPA implementing regulations (10 CFR part 1021), Western completed an environmental impact statement (EIS) on its Energy Planning and Management Program. The Record of Decision was published in the **Federal Register** (60 FR 53181, October 12, 1995). Western also completed the 2004 Power Marketing Program EIS (2004 EIS), and the Record of Decision was published in the **Federal Register** (62 FR 22934, April 28, 1997). The Marketing Plan falls within the range of alternatives considered in the 2004 EIS. This NEPA review identified and analyzed environmental effects related to the Marketing Plan. This action falls within the Marketing Plan and, thus, is covered by the 2004 EIS.

Determination Under Executive Order 12866

Western has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget is required.

Dated: April 22, 2008.

Timothy J. Meeks,

Administrator.

[FR Doc. E8–9816 Filed 5–2–08; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2008–0324; FRL–8561–8]

Adequacy Status of Motor Vehicle Emissions Budgets in Submitted Early Progress Plan Imperial County 8-Hour Ozone for Transportation Conformity Purposes; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Adequacy.

SUMMARY: In this notice, EPA is notifying the public that the Agency has found that the motor vehicle emissions budgets for 8-hour ozone in the Imperial County 8-hour Ozone Early Progress Plan are adequate for transportation conformity purposes. The Imperial County 8-hour Ozone Early Progress Plan was submitted to EPA on March 24, 2008 by the California Air Resources Board as a revision to the California State Implementation Plan (SIP). As a result of our adequacy findings, the Southern California Association of Governments and the U.S. Department of Transportation must use these budgets in future conformity analyses once the finding becomes effective.

DATES: This finding is effective May 20, 2008.

FOR FURTHER INFORMATION CONTACT: Adrienne Priselac, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105–3901; (415) 972–3285 or *priselac.adrienne@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Today's notice is simply an announcement of a finding that we have already made. EPA Region IX sent a letter to the California Air Resources Board on April 16, 2008 stating that the motor vehicle emissions budgets in the submitted Imperial County 8-hour Ozone Early Progress Plan for 2009 are adequate. The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*. The adequate motor vehicle emissions budgets are provided in the following table:

MOTOR VEHICLE EMISSIONS BUDGETS

Budget year	Volatile organic compounds [1] (tons per day)	Nitrogen oxides (tons per day)
2009	7	17

[1] The plan uses a comparable State term, reactive organic gases (ROG).

Transportation conformity is required by Clean Air Act section 176(c). EPA's conformity rule requires that transportation plans, transportation improvement programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). We have described our process for determining the adequacy of submitted SIP budgets in our July 1, 2004 preamble starting at 69 FR 40038 and we used the information in these resources in making our adequacy determination. Please note that an adequacy review is separate from EPA's completeness review, and should not be used to prejudge EPA's ultimate approval action for the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 16, 2008.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. E8–9821 Filed 5–2–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2008–0326; FRL–8561–7]

Adequacy Status of Motor Vehicle Emissions Budgets in Submitted Early Progress Plan Western Mojave Desert 8-Hour Ozone for Transportation Conformity Purposes; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Adequacy.

SUMMARY: In this notice, EPA is notifying the public that the Agency has found that the motor vehicle emissions budgets for 8-hour ozone in the Western Mojave Desert 8-hour Ozone Early Progress Plan are adequate for transportation conformity purposes. The Western Mojave Desert 8-hour Ozone Early Progress Plan was submitted to EPA on March 24, 2008 by the

California Air Resources Board as a revision to the California State Implementation Plan (SIP). As a result of our adequacy findings, the Southern California Association of Governments and the U.S. Department of Transportation must use these budgets in future conformity analyses once the finding becomes effective.

DATES: This finding is effective May 20, 2008.

FOR FURTHER INFORMATION CONTACT: Adrienne Priselac, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105–3901; (415) 972–3285 or *priselac.adrienne@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Today's notice is simply an announcement of a finding that we have already made. EPA Region IX sent a letter to the California Air Resources Board on April 16, 2008 stating that the motor vehicle emissions budgets in the submitted Western Mojave Desert 8-hour Ozone Early Progress Plan for 2009 are adequate. The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*. The adequate motor vehicle emissions budgets are provided in the following table:

MOTOR VEHICLE EMISSIONS BUDGETS

Budget year	Volatile organic compounds [1] (tons per day)	Nitrogen oxides (tons per day)
2009	22	77

[1] The plan uses a comparable State term, reactive organic gases (ROG).

Transportation conformity is required by Clean Air Act section 176(c). EPA's conformity rule requires that transportation plans, transportation improvement programs, and projects conform to state air quality implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). We have described our process for determining the adequacy of submitted SIP budgets in our July 1, 2004 preamble starting at 69 FR 40038 and we used the information in these resources in making our adequacy determination. Please note that an adequacy review is separate from EPA's completeness review, and should not be used to prejudge EPA's ultimate approval action for the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 16, 2008.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. E8–9822 Filed 5–2–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R09–OAR–2008–0323; FRL–8561–9]

Adequacy Status of Motor Vehicle Emissions Budgets in Submitted Early Progress Plan Ventura County 8-Hour Ozone for Transportation Conformity Purposes; California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Adequacy.

SUMMARY: In this notice, EPA is notifying the public that the Agency has found that the motor vehicle emissions budgets for 8-hour ozone in the Ventura County 8-hour Ozone Early Progress Plan are adequate for transportation conformity purposes. The Ventura County 8-hour Ozone Early Progress Plan was submitted to EPA on March 24, 2008 by the California Air Resources Board as a revision to the California State Implementation Plan (SIP). As a result of our adequacy findings, the Southern California Association of Governments and the U.S. Department of Transportation must use these budgets in future conformity analyses once the finding becomes effective.

DATES: This finding is effective May 20, 2008.

FOR FURTHER INFORMATION CONTACT: Adrienne Priselac, U.S. EPA, Region IX, Air Division AIR–2, 75 Hawthorne Street, San Francisco, CA 94105–3901; (415) 972–3285 or *priselac.adrienne@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA.

Today's notice is simply an announcement of a finding that we have already made. EPA Region IX sent a letter to the California Air Resources Board on April 16, 2008 stating that the motor vehicle emissions budgets in the submitted Ventura County 8-hour Ozone Early Progress Plan for 2009 are adequate. The finding is available at EPA's conformity Web site: *http://www.epa.gov/otaq/stateresources/transconf/adequacy.htm*. The adequate motor vehicle emissions budgets are provided in the following table:

MOTOR VEHICLE EMISSIONS BUDGETS

Budget year	Volatile organic compounds [1] (tons per day)	Nitrogen oxides (tons per day)
2009	13	19

[1] The plan uses a comparable State term, reactive organic gases (ROG).

Transportation conformity is required by Clean Air Act section 176(c). EPA's conformity rule requires that transportation plans, transportation improvement programs, and projects conform to state air quality

implementation plans (SIPs) and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards.

The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). We have described our process for determining the adequacy of submitted SIP budgets in our July 1, 2004 preamble starting at 69 FR 40038 and we used the information in these resources in making our adequacy determination. Please note that an adequacy review is separate from EPA's completeness review, and should not be used to prejudge EPA's ultimate approval action for the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: April 16, 2008.

Laura Yoshii,

Deputy Regional Administrator, Region IX.

[FR Doc. E8–9820 Filed 5–2–08; 8:45 am]

BILLING CODE 6560–50–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; 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 May 8, 2008, 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

- April 10, 2008.

A. New Business

- Proposed Rule—Rural Community Investments.
- Proposed Adoption of the FCA Strategic Plan for Fiscal Years 2008–2013.

A. Reports

- OMS Quarterly Report.
- OE Quarterly Report.

Closed Session*

- Update on OE Oversight Activities.

Dated: April 30, 2008.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 08–1221 Filed 5–1–08; 2:57 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2864]

Petitions for Reconsideration of Action in Rulemaking Proceeding

April 28, 2008.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents is available for viewing and copying in Room CY–B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1–800–378–3160). Oppositions to these petitions must be filed by May 20, 2008. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1). Replies to oppositions must be filed within 10 days after the time for filing oppositions have expired.

Subject: In the Matter of Advanced Television Systems and their Impact Upon the Existing Television Broadcast Service (MB Docket No. 87–268).

Number of Petitions Filed: 10.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–9750 Filed 5–2–08; 8:45 am]

BILLING CODE 6712–01–P

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

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 May 30, 2008.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. First State Bancorporation, Inc., Milan, Illinois; to acquire 100 percent of the voting shares of State Bank of Colusa, Colusa, Illinois.

2. First State Bancorporation, Inc., Milan, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Lamoine Bancorp, Inc., La Harpe, Illinois, and thereby indirectly acquire First State Bank of Western Illinois, La Harpe, Illinois.

Board of Governors of the Federal Reserve System, April 30, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–9841 Filed 5–2–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. 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 the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 19, 2008.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. Live Oak Bancshares Corporation, George West, Texas; to invest 75.5 percent in Forehand Title Management LLC, George West, Texas, and thereby indirectly engage in the sale of title insurance in a town of less than 5000, pursuant to section 225.28(b)(11)(iii)(A) of Regulation Y; real estate settlement servicing pursuant to section 225.28(b)(2)(viii) of Regulation Y; and real estate title abstracting services pursuant to The First National Company, 81 Federal Reserve Bulletin 805 (1995).

Board of Governors of the Federal Reserve System, April 30, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–9842 Filed 5–2–08; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: State Plan for Grants to States for Refugee Resettlement.

OMB No.: New Collection.

Description: A State Plan is required by 8 U.S.C. 1522 of the Immigration and Nationality Act (the Act) [Title IV, Sec. 412 of the Act] for each State agency requesting Federal funding for refugee resettlement under 8 U.S.C. 524 [Title IV, Sec. 414 of the Act], including Refugee Cash and Medical Assistance, Refugee Social Services, and Targeted Assistance program funding. The State Plan is a comprehensive narrative description of the nature and scope of a State's programs and provides assurances that the programs will be administered in conformity with the specific requirements stipulated in 45 CFR 400.4–400.9. The State Plan must include all applicable State procedures, designations, and certifications for each requirement as well as supporting documentation. A State may use a pre-print format prepared by the Office of Refugee Resettlement (ORR) of the Administration for Children and Families (ACF) or a different format, on the condition that the format used meets all of the State plan requirements under Title IV of the Act and ORR regulations at 45 CFR part 400.

There is no schedule for submission of this State Plan, as all States are currently operating under an approved plan and are in compliance with regulations at 45 CFR 400.4 400.9. Per 45 CFR 400.4(b), States need only certify that the approved plan is current and continues in effect, no later than 30 days after the beginning of the Federal fiscal year. Consistent with regulations, if States wish to revise or amend the plan, a revised plan or plan amendment must be submitted to ORR as described at 45 CFR 400.7 400.9.

Respondents: State Agencies, Replacement Designees under 45 CFR 400.301(c), and Wilson-Fish Grantees (State 2 Agencies) administering or supervising the administration of programs under Title IV of the Act.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Title IV State Plan	50	1	15	750

Estimated Total Annual Burden Hours: 750.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E mail address: *infocolection@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: April 24, 2008.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E8–9640 Filed 5–2–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: State Plan for Child Support under Title IV–D of the Social Security Act (OCSE–100 and OCSE–21–U4).

OMB No.: 0970–0017.

Description: The State plan preprint pages and amendments serve as a contract between the Office of Child Support Enforcement and State and Territory IV–D agencies. These State plan preprint pages and amendments outline the activities States and Territories will perform as required by law, in Section 454 of the Social Security Act, in order for States and Territories to receive Federal funds to meet the costs of child support enforcement.

Respondents: State and Territory IV–D Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
State Plan (OCSE–100)	54	8	0.5	216
OCSE–21–U4	54	8	0.25	108

Estimated Total Annual Burden Hours: 324.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov*.

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, Attn: Desk Officer for the Administration for Children and Families.

Dated: April 28, 2008.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. E8–9751 Filed 5–2–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Reunification Procedures for Unaccompanied Alien Children.

OMB No.: 0970–0278.

Description: Following the passage of the 2002 Homeland Security Act (Pub. L. 107–296), the Administration for Children and Families (ACF), Office of Refugee Resettlement (ORR), is charged with the care and placement of unaccompanied alien children in Federal custody, and implementing a policy for the release of these children, when appropriate, upon the request of suitable sponsors while awaiting immigration proceedings. In order for ORR to make determinations regarding the release of these children, the potential sponsors must meet certain conditions pursuant to section 462 of the Homeland Security Act and the *Flores* v. *Reno Settlement Agreement* No. CV85 4544–RJK (C.D. Cal. 1997).

The proposed information collection requests information to be utilized by ORR for determining the suitability of a sponsor/respondent for the release of a minor from ORR custody. The proposed instruments are the Sponsor's Agreement to Conditions of Release, Verification of Release, Family Reunification Packet, and the Authorization for Release of Information.

Respondents: Sponsors requesting release of unaccompanied alien children to their custody.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Sponsor's Agreement to Conditions of Release	4,288	2	.0835	716
Verification of Release	4,288	1	.167	716
Family Reunification Packet	4,288	18	.0416	3,211
Authorization for Release of Information	4,288	15	.0222	1,428

Estimated Total Annual Burden Hours: 6,071.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this

document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following:

Office of Management and Budget, Paperwork Reduction Project, Fax: 202–395–6974, *Attn:* Desk Officer for the Administration for Children and Families.

Dated: April 28, 2008.

Janean Chambers,

Reports Clearance Officer.

[FR Doc. E8–9762 Filed 5–2–08; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0257]

Draft Prescription Drug User Fee Act IV Drug Safety Five-Year Plan; Availability for Comment

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability for public comment of the draft drug safety 5-year plan entitled ''Prescription Drug User Fee Act (PDUFA) IV Drug Safety Five-Year Plan.'' This plan is intended to communicate FDA's strategy for meeting the commitments for enhancing and modernizing the drug safety system within the context of the PDUFA IV program.

DATES: Submit written or electronic comments on the draft drug safety 5-year plan by June 19, 2008.

ADDRESSES: Submit written requests for single copies of the draft plan to the Office of Executive Programs, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, rm. 6100, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. Submit written comments on the draft drug safety 5-year plan to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit electronic comments to *http://www.regulations.gov*. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the document.

FOR FURTHER INFORMATION CONTACT: Jayne C. Ware, Food and Drug Administration, Center for Drug Evaluation and Research, Office of Executive Programs, 10903 New Hampshire Ave., Bldg. 51, rm. 6100, Silver Spring, MD 20993–0002, 301–796–3200.

SUPPLEMENTARY INFORMATION:

I. Background

On September 27, 2007, President Bush signed into law the Food and Drug Administration Amendments Act of 2007, which includes the reauthorization and expansion of PDUFA. The reauthorization of PDUFA will significantly broaden and modernize the agency's drug safety program and facilitate more efficient development of safe and effective new medications for the American public. During the user fee negotiation process leading up to the renewal of PDUFA, FDA and the relevant regulated industries mutually agreed to certain commitments that the FDA will carry out during fiscal years 2008 through 2012. Congress signaled its agreement with the commitments by authorizing PDUFA funds for them. Among those commitments is the responsibility of the FDA to develop and periodically update a 5-year plan describing activities that will lead to enhancing and modernizing FDA's drug safety system.

FDA is announcing for public comment the availability of the draft drug safety 5-year plan entitled ''Prescription Drug User Fee Act (PDUFA) IV Drug Safety Five-Year Plan.'' This plan is intended to communicate FDA's strategy for meeting the commitments for enhancing and modernizing the drug safety system within the context of the PDUFA IV program. The plan describes the agency's strategy for achieving the commitments defined in section VIII, Enhancement and Modernization of the FDA Drug Safety System, and section IX, Review of Proprietary Names to Reduce Medication Errors, of the PDUFA IV Performance Goals (*http://www.fda.gov/oc/pdufa4/pdufa4goals.html*). At the end of the comment period, FDA will review the comments, update the ''PDUFA IV Drug Safety Five-Year Plan,'' and publish the final version.

II. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding this document. Submit a single copy of electronic comments or two paper copies of any mailed comments, except that individuals may submit one paper copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

Please note that on January 15, 2008, the FDA Division of Dockets Management Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic comments or submissions will be accepted by FDA only through FDMS at *http://www.regulations.gov*.

III. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/pdufa/PDUFA_IV_5yr_plan_draft.pdf*.

Dated: April 25, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–9726 Filed 5–2–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

The 11th Annual Food and Drug Administration-Orange County Regulatory Affairs Educational Conference

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of meeting.

The Food and Drug Administration (FDA) is announcing the following conference: 11th Annual Educational Conference co-sponsored with the Orange County Regulatory Affairs Discussion Group (OCRA). The conference is intended to provide the Drug, Device, and Biologics industries with an opportunity to interact with FDA reviewers and compliance officers from the Centers and District Offices, as well as other industry experts. The main focus of this interactive conference will be product approval, compliance, and risk management in the three medical product areas. Industry speakers, interactive questions and answers, and workshop sessions will also be included to assure open exchange and dialogue on the relevant regulatory issues.

Date and Time: The conference will be held on June 11 and 12, 2008, from 7:30 a.m. to 5 p.m.

Location: The conference will be held at the Irvine Marriott Hotel, 18000 Von Karman Ave., Irvine, CA 92612.

Contact: Linda Hartley, Food and Drug Administration, 19701 Fairchild, Irvine, CA 92612, 949–608–4413, FAX: 949–608–4417, or OCRA, Attention to Detail (ATD), 5319 University Dr., suite 641, Irvine, CA 92612, 949–387–9046, FAX: 949–387–9047, Web site: *www.ocra-dg.org*.

Registration and Meeting Information: See OCRA Web site, *www.ocra-dg.org*. Contact ATD at 949–387–9046.

Before May 9, 2008, registration fees are as follows: $675.00 for members, $725.00 for non-members and $475.00 for FDA/Govt/Students.[1] After May 9, 2008, $725.00 for members, $775.00 for non-members, and $475.00 for FDA/Govt/Students.

The registration fee will cover actual expenses including refreshments, lunch, materials, and speaker expenses.If you need special accommodations due to a disability, please contact Linda Hartley at least 10 days in advance.

Dated: April 29, 2008.

Jeffrey Shuren,

Associate Commissioner for Policy and Planning.

[FR Doc. E8–9728 Filed 5–2–08; 8:45 am]

BILLING CODE 4160–01–S

[1]Applied to full-time students with the proper identification.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 a meeting of the Board of Scientific Counselors, NICHD.

The meeting will be open to the public as indicated below, 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.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Child Health and Human Development, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NICHD.

Date: June 6, 2008.

Open: 8 a.m. to 11:30 a.m.

Agenda: A report by the Scientific Director, NICHD, on the status of the NICHD Division of Intramural Research.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, Room 2A48, Bethesda, MD 20892.

Closed: 11:30 a.m. to 5 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 31, 9000 Rockville Pike, Room 2A48, Bethesda, MD 20892.

Contact Person: Owen M. Rennert, MD, Scientific Director, National Institute of Child Health and Human Development, 9000 Rockville Pike, Building 31, Room 2a50, Bethesda, MD 20892, (301) 496–2133, *rennerto@mail.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 onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nichd.nih.gov/about/bsd/htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: April 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9639 Filed 5–2–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed 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 a meeting of the Division of Intramural Research Board of Scientific Counselors, NIAID. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Division of Intramural Research Board of Scientific Counselors, NIAID.

Date: June 2–4, 2008.

Time: June 2, 2008, 8 a.m. to 5:10 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, 50 Center Drive, Conference Rooms 1227/1233, Bethesda, MD 20892.

Time: June 3, 2008, 8 a.m. to 4:50 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, 50 Center Drive, Conference Rooms 1227/1 233, Bethesda, MD 20892.

Time: June 4, 2008, 8 a.m. to 11:20 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, 50 Center Drive, Conference Rooms 1227/1 233, Bethesda, MD 20892.

Contact Person: Kathryn C. Zoon, PhD, Director, Division of Intramural Research, National Institute of Allergy and Infectious Diseases, NIH, Building 31, Room 4A30, Bethesda, MD 20892, 301–496–3006, *kzoon@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9756 Filed 5–2–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of 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 open to the public as indicated below, 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.

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 Diabetes and Digestive and Kidney Diseases Initial Review Group, Diabetes, Endocrinology and Metabolic Diseases B Subcommittee.

Date: June 12–13, 2008.

Open: June 12, 2008, 5 p.m. to 5:30 p.m.

Agenda: To review procedures and discuss policy

Place: San Francisco Marriott, 55 Fourth Street, San Francisco, CA 94103.

Closed: June 12, 2008, 5:30 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: San Francisco Marriott, 55 Fourth Street, San Francisco, CA 94103.

Closed: June 13, 2008, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: San Francisco Marriott, 55 Fourth Street, San Francisco, CA 94103.

Contact Person: John F. Connaughton, PhD, Chief, Chartered Committees Section, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7797, *connaughtonj@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Initial Review Group, Kidney, Urologic and Hematologic Diseases D Subcommittee.

Date: June 25–26, 2008.

Open: June 25, 2008, 8 a.m. to 8:30 a.m.

Agenda: To review procedures and discuss policy.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Closed: June 25, 2008, 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Closed: June 26, 2008, 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Barbara A. Woynarowska, PhD, Scientific Review Administrator, Review Branch, Dea, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: April 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9758 Filed 5–2–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Clinical Trials Review Committee, June 30, 2008, 8:30 a.m. to July 1, 2008, 5 p.m., Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202 which was published in the **Federal Register** on April 22, 2008, FRE8–8513.

The meeting dates were changed from June 30–July 1, 2008 to June 23–24, 2008. Also, meeting location was changed from Pier 5 Hotel to Sheraton Columbia Hotel. The rest of the information remains the same. The meeting is closed to the public.

Dated: April 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9759 Filed 5–2–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed 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 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 Dental and Craniofacial Research Special Emphasis Panel; Review of RFA DE–08–006 and RFA DE–08–007 Osteoimmunology—Crosstalk between Immune System and Bone.

Date: June 3, 2008.

Time: 8 a.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Rebecca Wagenaar Miller, PhD, Scientific Review Officer, Scientific Review Branch, National Inst of Dental & Craniofacial Research, National Institutes of Health, 6701 Democracy, Rm 666, Bethesda, MD 20892, 301–594–0652, *rwagenaa@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: April 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9755 Filed 5–2–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed 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 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 Allergy and Infectious Diseases, Special Emphasis Panel, ''Review of Clinical Trial Planning Grants''.

Date: May 29, 2008.

Time: 10 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 10401 Fernwood Road, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Kenneth E. Santora, PhD, Scientific Review Officer, Scientific Review Program, NIH/NIAID/DHHS, Room 3146, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–451–2605, *ks216i@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: April 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9757 Filed 5–2–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; 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 Sickle Cell Disease Advisory Committee.

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: Sickle Cell Disease Advisory Committee.

Date: June 2, 2008.

Time: 8:30 a.m. to 4 p.m.

Agenda: Discussion of Programs and Issues.

Place: National Institutes of Health, 6701 Rockledge Drive, Conference Room 9112/9116, Bethesda, MD 20892.

Contact Person: Robert B Moore, PhD, Health Scientist Administrator, Blood Diseases Program, Division of Blood Disease and Resources, National Heart, Lung, and Blood Institute, NIH, 6701 Rockledge Drive, Room 10162, Bethesda, MD 20892, 301/435–0050.

Information is also available on the Institute's/Center's home page: *http://www.nhlbi.nih.gov/meetings/index.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: April 25, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. E8–9638 Filed 5–2–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Community Mental Health Services Block Grant Application Guidance and Instructions, FY 2009–2011 (OMB No. 0930–0168)—Revision

Sections 1911 through 1920 of the Public Health Service Act (42 U.S.C. 300x through 300x–9) provide for annual allotments to assist States to establish or expand an organized, community-based system of care for adults with serious mental illnesses and children with serious emotional disturbances. Under these provisions of the law, States may receive allotments only after an application is submitted and approved by the Secretary of the Department of Health and Human Services.

On January 28, 2008, SAMHSA published a request for public comment on its proposed guidance and instructions to the States to guide development of comprehensive State applications/plans and implementation reports for FY 2009–2011. Proposed revisions to the guidance included:

(1) Streamlining the process for reporting States' use of the block grant to support mental health transformation, including narrowing from 20 to 6 the number of transformation categories for which States are asked to provide the amount of funding that will be used to support specific transformation activities and limiting reporting to block grant funds only.

(2) Reorganizing and consolidating sections of the guidance to improve readability and clarity and to reduce redundancy.

(3) Eliminating Table 18 from the Uniform Reporting System (URS) tables that States must submit.

(4) Eliminating the requirement that States complete a State-Level Reporting Capacity Checklist for submission to the State Data infrastructure Coordinating Center.

SAMHSA received formal comments from seven commenters. Most of the comments supported the changes described below, and several commended SAMHSA for appointing a Federal-State working group to address concerns raised by the States regarding the FY 2008 guidance and instructions. A summary of the comments and SAMHSA's response is provided below.

Request for clarification regarding reporting transformation expenditures under Table C. Two commenters noted that, while they supported the proposed revisions to streamline the reporting of transformation expenditures, their State fiscal processes did not support tracking and reporting expenditures in this manner. One commenter requested clarification that a State would ''not be held'' to expenditure estimates provided in the application.

The transformation expenditures requested under Table C are an essential component of the application guidance, as they provide important information to SAMHSA regarding States' use of the block grant to support mental health transformation. SAMHSA clarifies that the transformation expenditures requested to be reported under Table C of the application may be reported as estimates if the State cannot provide actual expenditures and that States are not obligated to expend funds in the categories indicated or to track and justify their expenditures consistent with these estimates. No change to the guidance is needed to provide this clarification.

Request for clarification regarding allowable uses of the block grant for research and evaluation. As published in the January 28, 2008 **Federal Register**, Table C requested that States estimate their expenditures to support the transformation goal ''Research is Accelerated.'' One commenter accurately noted that research is not an allowable expenditure under the block grant statute, and requested that this goal be revised to read ''Program Evaluation is Accelerated.'' SAMHSA incorporated this revision in the guidance submitted for OMB review.

Request for clarification regarding the difference between the State Transformation Outcome Measure and other Outcome Measures requested in the application guidance. As stated in the proposed guidance, each State is required to submit a Transformation Outcome Measure in addition to all required National Outcome Measures (NOMS). The Transformation Outcome Measure is selected by the State to reflect its own priorities. However, the Transformation Outcome Measure may be the same measure as one of the NOMS. No change to the guidance is needed to provide this clarification.

Request that the submission date for the application be changed from September 1 to December 1 to coincide with submission of the State Implementation Report. As the commenter acknowledged, the submission dates for the application and Implementation Report are established in statute, and cannot be changed through the administrative process of revising the application guidance and instructions. Thus, no changes to the guidance are incorporated to address this concern.

Request for clarification regarding whether States should report the number of clients or the percent of clients receiving Evidence Based Practices (EBPs). One commenter notes a discrepancy in the application regarding whether the number or percent of clients receiving EBPs should be reported. Appendix I was revised to clarify that the percent of clients receiving EBPs should be reported. Additional clarifying revisions were made to Appendix I regarding the specific numerators and denominators that States should use to calculate NOMS.

With the streamlining of information regarding State mental health transformation activities, elimination of URS Table 18 as a requirement for reporting, and other improvements to the MHBG guidance, it was determined that the annual burden for the revised application was reduced by 15 hours per State. The following table summarizes the annual burden for the revised application.

Application	Number of respondents	Responses/ respondent	Burden response (hrs)	Total burden hours
1 Yr. Plan	44	1	175	7,700
2 Yr. Plan	6	1	145	870
3 Yr. Plan	9	1	105	945
Implementation Report	59	1	70	4,130
URS Tables	59	1	35	2,065
Total	59			15,710

Written comments and recommendations concerning the proposed information collection should be sent by June 4, 2008 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: April 28, 2008.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E8–9788 Filed 5–2–08; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are 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 proposed collection of information; (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 respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Drug Abuse Warning Network (OMB No. 0930–0078)—Revision

The Drug Abuse Warning Network (DAWN) is an ongoing data system that collects information on drug-related medical emergencies as reported from about 350 hospitals nationwide, and drug-related deaths as reported from 11 states with centralized Medical Examiner offices and 125 medical examiners/coroner jurisdictions (ME/C) in 32 metropolitan areas. DAWN provides national and metropolitan estimates of substances involved with drug-related emergency department (ED) visits; disseminates information about substances involved in deaths investigated by participating medical examiners and coroners (ME/Cs); tracks drug abuse patterns, trends, and the emergence of new substances; monitors post-market adverse drug incidents; assesses health hazards associated with the use of illicit, prescription, and over-the-counter drugs; and generates information for national and local drug abuse policy and program planning. DAWN data are used by Federal, State, and local agencies, as well as

universities, pharmaceutical companies, and the media.

From 2009 to 2011, DAWN will continue to recruit hospitals in the 13 oversampled metropolitan areas and in the remainder of the U.S. in order to improve the precision of estimates, adding approximately 43 sampled hospitals that are currently not participating. In 2009 and 2010, DAWN plans to recruit 2 States with centralized ME/C systems. To achieve full participation by ME/Cs in the metropolitan areas currently covered, DAWN plans to recruit approximately 20 more ME/Cs from the 13 metropolitan areas, and approximately 20 ME/Cs from metropolitan areas in the rest of the country. DAWN data are submitted electronically, using eHERS (electronic Hospital Emergency Reporting System) and eMERS (electronic Medical Examiner Reporting System). In most of the facilities participating in DAWN (83 percent of the EDs and 58 percent of the ME/C offices), data are collected by government contractor staff; these facilities are not included in the burden statement because the facility staff are not involved in data collection. The annual burden estimates for those EDs and ME/C offices that collect the data using their own staff are shown below. There will be minor editorial changes to both the ED and ME/C reporting forms to simplify reporting. On the ME/C reporting form, a data element for case narrative will be added. These changes are not anticipated to impact the overall burden.

ANNUALIZED REPORTING BURDEN FOR DAWN: 2009–2011

Activity	Number of respondents [1]	Estimated number of responses per respondent	Total responses	Estimated time per response (in minutes)	Total hour burden
Emergency Departments					
ED Chart review	61	24,551	1,497,604	3	74,880
Case data upload	61	556	33,906	3	1,695
ED activity report	61	240	14,640	2	488
Subtotal	61				77,063
State Medical Examiners					
Death investigation records review	6	3,099	18,593	4	1,240
Case data upload	6	338	2,027	3	101
ME/C activity report	6	240	1,440	2	48
Subtotal	6				1,389
Individual Medical Examiner/Coroners					
Death investigation records review	84	1,097	92,181	4	6,145
Case data upload	84	89	7,471	3	374
ME/C activity report	84	240	20,160	2	672
Subtotal	84				7,191
Total	151				85,643

[1] Data collection for the 61 EDs and 101 ME/Cs where data are collected by facility staff or other staff (does not include data collected by DAWN operations contractor staff).

[2] In participating States, a single office reports for all jurisdictions; in other areas, a single medical examiner/coroner office may report for multiple jurisdictions. For this reason, the number of respondents is smaller than the number of ME/C jurisdictions participating in DAWN.

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 and e-mail her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received within 60 days of this notice.

Dated: April 28, 2008.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E8–9791 Filed 5–2–08; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5130–N–23]

Privacy Act; System of Records, Single Family Housing Enterprise Data Warehouse (SFHEDW/D64A–HUD/HS–15)

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice of revision of agency's Privacy Act System of Records.

SUMMARY: HUD is proposing to revise information published in the **Federal Register** about one of its record systems entitled the Single Family Housing Enterprise Data Warehouse. HUD's revisions reflect current administrative changes and revised statements for the purpose, system location, and record source categories. The scope and functional purpose of the systems remains unchanged

DATES: *Effective Date:* This action shall be effective without further notice on June 4, 2008 unless comments are received during or before this period that would result in a contrary determination.

Comments Due Date: June 4, 2008.

ADDRESSES: Interested persons are invited to submit comments regarding this notice to the Rules Docket Clerk, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500.

Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT: The Departmental Privacy Act Officer, Office of the Chief Information Officer, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 2256, Washington, DC 20410, telephone number (202) 402–8073 or the System Owner, Director, Office of Single Family Program Development, HUP, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone number (202) 708–2121. (These are not toll-free numbers.) Telecommunication device for hearing—and speech—impaired individuals (TTY) is available at (800) 877–8339 (Federal Information Relay Service).

SUPPLEMENTARY INFORMATION: Title 5 U.S.C. 552a(e)(4) and (11) provide that the public be afforded a 30-day period in which to comment on the new system of records, and require published notice of the existence and character of the system of records.

The report was submitted to the Office of Management and Budget (OMB), the Senate Committee on Homeland Security and Governmental Affairs, and the House Committee on Oversight and Government Reform pursuant to paragraph 4c of Appendix 1 to OMB Circular No. A–130, ''Federal Responsibilities for Maintaining Records About Individuals,'' July 25, 1994 (59 FR 37914).

Authority: 5 U.S.C. 552a, 88 Stat. 1896; 42 U.S.C. 3535(d).

April 21, 2008.

Joseph M. Milazzo,

Acting, Chief Information Officer.

Altered System HUD/HS–15

SYSTEM NAME:

Single Family Housing Enterprise Data Warehouse (SFHEDW/D64A).

SYSTEM LOCATION:

The HUD Data Center, which houses D64A, is located at the EDS Facility in South Charleston, West Virginia. HUD staff throughout the United States access SFHEDW/D64A through HUD's standard telecommunications network from desktop workstations.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have obtained a mortgage insured under HUD/FHA's single family mortgage insurance programs, individuals who assumed such a mortgage, and individuals involved in appraising or underwriting the mortgage.

CATEGORIES OF RECORDS IN THE SYSTEM:

Automated files contain name, address, date of birth, home address, and social security number; racial/ethnic background, if disclosed, on mortgagors; identifying numbers on individuals involved in processing the loan; and data regarding currently and formerly insured mortgages. The loan data includes underwriting data, such as loan-to-value ratios and credit ratios; original terms, such as mortgage amount, interest rate, term in months; status of the mortgage insurance; and history of payment defaults, if any.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sec. 203, National Housing Act, Pub. L. 73–479.

PURPOSE(S):

The SFHEDW/D64A is an ongoing, fully operational data warehouse that is the key source of data for anyone who needs Single Family data. D64A is an integrated data warehouse that contains critical Single Family business data from fourteen (14) sources, mostly from FHA Single Family automated systems. The system allows queries and provides reporting tools to support oversight activities, market and economic assessment, public and stakeholder communication, planning and performance evaluation, policies and guidelines promulgation, monitoring and enforcement.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act other routine uses include:

(a) To the FBI to investigate possible fraud revealed in underwriting, insuring or monitoring.

(b) To Department of Justice for prosecution of fraud revealed in underwriting, insuring or monitoring.

(c) To General Accounting Office (GAO) for audit purposes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored on magnetic tape/disc/drum.

RETRIEVABILITY:

Records are retrieved by name, social security number or other identification number, case number, property address, or any other type of stored data.

SAFEGUARDS:

Automated records are maintained in secured areas. Access is limited to authorized personnel.

RETENTION AND DISPOSAL:

Computerized records of insured cases are retained for at least 10 years beyond maturity, prepayment, or claim termination.

SYSTEM MANAGER(S) AND ADDRESS:

Margaret Burns, Director, Office of Single Family Program Development, HUP, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

NOTIFICATION PROCEDURE:

For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location in accordance with 24 CFR part 16.

RECORD ACCESS PROCEDURES:

The Department's rules for providing access to records to the individual concerned appear in 24 CFR part 16. If additional information or assistance is required, contact the Privacy Act Officer.

CONTESTING RECORD PROCEDURES:

The procedures for contesting the contents of records and appealing initial denials appear in 24 CFR Part 16—Implementation of the Privacy Act of 1974. If additional information or assistance is required, contact:

(i) The Departmental Privacy Act Officer, Department of Housing and Urban Development; 451 Seventh Street, SW., Room 2256, Washington, DC 20410, if contesting the content of records; or

(ii) The Departmental Privacy Appeals Office, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410 for appeals of initial denials.

RECORD SOURCE CATEGORIES:

Mortgagors, appraisers, mortgagee staff underwriters, and HUD employees—indirectly, immediate sources are the following:

1. A43—Single Family Insurance System (SFIS).
2. A43C—Single Family Insurance Claims System (CLAIMS).
3. A80R—Single Family Premium Collections System—Upfront (SFPCS–U).
4. A80S—Single Family Acquired Assets Management System (SAMS).
5. F17—Computerized Home Underwriting Mortgage System (CHUMS).

6. F42D—Single Family Default Monitoring System (SFDMS).
7. F42—Consolidated Single Family Statistical System (CSFSS).
8. F51—Institution Master File (IMF).
9. A80N—SF Mortgage Notes Servicing (SFMNS/IFS).
10. F72—Title I Insurance and Claims System (TIIS).
11. F12—Home Equity Conversion Mortgages (HECM).
12. HMDA data from Federal Reserve Board (FRB).
13. F71A—Generic Debt Management System (GDEBT).
14. A15—Geocoding Service Center (GSC).

EXEMPTIONS FROM CERTAIN PROVISION OF THE ACT:

None.

[FR Doc. E8–9862 Filed 5–2–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–27]

Indian Housing Block Grant (HBG) Evaluation

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 study of the Indian Housing Block Grant Program will provide the answer to a number of important questions about the homeownership programs. Information will provide a detailed assessment of the effectiveness of the IHBG and its relevance to the housing needs of American Indians and Alaska Natives and whether desired results are achieved through the program's activities.

DATES: *Comments Due Date: June 4, 2008.*

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–NEW) 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 Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

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: Indian Housing Block Grant (HBG) Evaluation.

OMB Approval Number: 2577–NEW.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: The study of the Indian Housing Block Grant Program will provide the answer to a number of important questions about the homeownership programs. Information will provide a detailed assessment of the effectiveness of the IHBG and its relevance to the housing needs of American Indians and Alaska Natives and whether desired results are achieved through the program's activities.

Frequency of Submission: On occasion, other one-time.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	650	1		0.32		208

Total Estimated Burden Hours: 208

Status: New Collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: April 28, 2008.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E8–9763 Filed 5–2–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–26]

Relocation and Real Property Acquisition, Recordkeeping Requirements Under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as Amended (URA)

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.

HUD funded projects involving the acquisition of real property or the displacement of persons as a direct result of acquisition, rehabilitation or demolition are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). Agencies receiving HUD funding for such projects are required to document their compliance with applicable requirements of the URA and it's implementing government-wide regulations at 49 CFR part 24.

DATES: *Comments Due Date: June 4, 2008.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval Number (2506–0121) 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 Deitzer at *Lillian_L_Deitzer@HUD.gov* or telephone (202) 402–8048. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Deitzer.

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: Relocation and Real Property Acquisition, Recordkeeping Requirements under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA).

OMB Approval Number: 2506–0121.

Form Numbers: None.

Description of the Need for the Information and its Proposed Use: HUD funded projects involving the acquisition of real property or the displacement of persons as a direct result of acquisition, rehabilitation or demolition are subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA). Agencies receiving HUD funding for such projects are required to document their compliance with applicable requirements of the URA and it's implementing government-wide regulations at 49 CFR Part 24.

Frequency of Submission: Recordkeeping.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	2,000	40		3.5		280,000

Total Estimated Burden Hours: 280,000.

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: April 28, 2008.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E8–9764 Filed 5–2–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–912–08–0777–XX]

Notice of Public Meeting; Central Montana Resource Advisory

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM), the Central Montana Resource Advisory Councils will meet as indicated below. This is a change from the meeting dates previously published in the **Federal Register**/Vol.73, No. 75/Thursday, April 17, 2008/Notices on page 20933.

DATES: The Central Montana Resource Advisory Council (RAC) will meet on May 20, 2008, from 8 a.m. until 11:30 a.m. at the BLM Montana State Office at 5001 Southgate Drive, Billings, Montana. Among the items to be discussed are the Malta and Upper Missouri River Breaks National Monument Resource Management Plans. The public comment period will be at 8 a.m. on May 20.

The Western, Central, and Eastern Montana and Dakotas RAC joint meeting and the Western and Eastern Montana and Dakotas RAC individual meetings will still occur on May 20–21, 2008, as per the notice published in the **Federal Register**/Vol.73, No. 75/Thursday, April 17, 2008/Notices on page 20933.

FOR FURTHER INFORMATION CONTACT: Mary Apple, State RAC Coordinator, BLM Montana State Office, 5001 Southgate Drive, Billings, MT 59101, (406) 896–5258.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the Bureau of Land Management, on a variety of planning and management issues associated with public land management in central Montana.

All meetings are open to the public. The public may present written comments to the Council. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, or other reasonable accommodations, should contact the BLM as provided above.

Dated: April 29, 2008.

Gene R. Terland,

Montana State Director.

[FR Doc. E8–9789 Filed 5–2–08; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–957–08–1420–BJ–TRST]

Notice of Filing of Plats of Survey, Nebraska

AGENCY: Bureau of Land Management, Interior.

SUMMARY: The Bureau of Land Management (BLM) is scheduled to file the plats of survey of the lands described below thirty (30) calendar days from the date of this publication in the BLM Wyoming State Office, Cheyenne, Wyoming.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 5353 Yellowstone Road, P.O. Box 1828, Cheyenne, Wyoming 82003.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the Bureau of Indian Affairs and are necessary for the management of these lands. The lands surveyed are:

The plats and field notes representing the dependent resurvey of portions of the subdivisional lines, subdivision of certain sections, and adjusted original 1867 meanders of the right bank of the Missouri River, and the survey of the subdivision of certain sections and the meander of a portion of the current right bank of the Missouri River, Township 26 North, Range 9 East, of the Sixth Principal Meridian, Nebraska, Group No. 161 was accepted April 03, 2008.

The plats and field notes representing the dependent resurvey of the Treaty Boundary of March 8, 1865, through Range 9 East., portions of the north boundary, subdivisional lines, subdivision of certain sections, and adjusted 1875 meanders of the Old (Impassable) Slough and right bank of the Missouri River, and the corrective dependent resurvey of portions of the subdivisional lines and subdivision of certain sections, and the survey of the subdivision of certain sections, Township 26 North, Range 9 East, of the Sixth Principal Meridian, Nebraska, Group No. 159 was accepted April 28, 2008.

Copies of the preceding described plat and field notes are available to the public at a cost of $1.10 per page.

Dated: April 29, 2008.

John P. Lee,

Chief Cadastral Surveyor, Division of Support Services.

[FR Doc. E8–9784 Filed 5–2–08; 8:45 am]

BILLING CODE 4467–22–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before April 19, 2008. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by May 20, 2008.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

ALABAMA

Conecuh County

Johnston, Asa, Farmhouse, Co. Rd. 29 .6 mi NW. of jct. with Co. Rd. 6, Johnsonville, 08000455

Jefferson County

Bass, Jonathan W., House, 629 Montevallo Rd., Leeds, 08000456

Slossfield Community Center, 1901 25th Ct. N., Birmingham, 08000457

Mobile County

Aimwell Baptist Church, 500 Earle St., Mobile, 08000458

Mt. Olive Missionary Baptist Church No.1, 409 Lexington Ave., Mobile, 08000459

Turner—Todd Motor Company, 455 St. Louis St., Mobile, 08000460

ARIZONA

Yavapai County

Cross Creek Ranch House, 10 Russet Ridge Pl., Sedona, 08000461

ARKANSAS

Franklin County

Charleston Commercial Historic District, Main St. roughly from AR 217 to Tilden St., Charleston, 08000462

FLORIDA

Lee County

Towles, William H., House, 2050 McGregor Blvd., Fort Myers, 08000463

MASSACHUSETTS

Berkshire County

Clinton African Methodist Episcopal Zion Church, 9 Elm Ct., Great Barrington, 08000464

Worcester County

Mount Vernon Cemetery, Church St., West Boylston, 08000465

MINNESOTA

Becker County

Detroit Lakes City Park, Washington Ave. & North Shore Dr., Detroit Lakes, 08000466

NEW JERSEY

Middlesex County

Great Beds Light Station, (Light Stations of the United States MPS) Offshore in Raritan Bay at NJ-NY line approx. 1 mi. E. of South Amboy, South Amboy, 08000467

NEW YORK

Cayuga County

Otis, Job and Deborah, House, (Freedom Trail, Abolitionism, and African American Life in Central New York MPS) 1882–1886 Sherwood Rd., Sherwood, 08000468

Cortland County

Cortland Free Library, 32 Church St., Cortland, 08000469

Town Line Bridge, Town Line Rd., Taylor, 08000470

Queens County

Trinity Lutheran Church, 31–18 37th St., New York, 08000471

OREGON

Deschutes County

Wienecke, Emil and Ottilie, House, 1325 NW. Federal St., Bend, 08000472

Multnomah County

Mount Hood Masonic Temple, 5308 N. Commercial Ave., Portland, 08000473

TEXAS

Bexar County

White, R.L., Ranch, 18744 Bandera Rd. E., Helotes, 08000474

Dallas County

Building at 3525 Turtle Creek Boulevard, 3525 Turtle Creek Blvd., Dallas, 08000475

Denton County

Central Roanoke Historic District, 100 & 200 blks. of N. Oak St., Roanoke, 08000476

Galveston County

USS CAVALLA (submarine), E. end of Seawolf Park, Galveston, 08000477

Nacogdoches County

Nacogdoches Downtown Historic District, Roughly bounded by Southern Pacific RR tracks, Banita Cr., Pilar, Mound, Arnold, North & Hospital Sts., Nacogdoches, 08000478

VIRGINIA

Bedford Independent City

Elks National Home, 931 Ashland Ave., Bedford (Independent City), 08000479

Northampton County

Northampton Lumber Company Historic District, Jct. of VA 912 & US 13, Nassawadox, 08000480

Page County

Graves Chapel and Cemetery, 457 Chapel Rd., Stanley, 08000481

Powhatan County

Rosemont, 4747 Cosby Rd., Powhatan, 08000482

Southampton County

Mahone's Tavern, 22341 Main St., Courtland, 08000483

[FR Doc. E8–9724 Filed 5–2–08; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

Notice of Change in Post Employment Restrictions for Former Employees Seeking To Appear in Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given of a change in agency practice. Former employees of the U.S. International Trade Commission (''Commission'') may now represent a party in a five-year review conducted under title VII of the Tariff Act of 1930 even if they participated personally and substantially in the corresponding underlying original title VII investigation while a Commission employee. The five-year review is not the same particular matter as the underlying original investigation for the purpose of applying post employment restrictions. In addition, former employees seeking to appear in a five-year review will no longer be required to seek approval to appear from the Commission, pursuant to Commission rule 201.15(b) (19 CFR 201.15(b)), even if the underlying original investigation had been pending when they were employed by the Commission.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Deputy Agency Ethics Official, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3088. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal at (202) 205–1810. General information concerning the Commission can also be obtained by accessing its Internet server (*http://www.usitc.gov*).

SUPPLEMENTARY INFORMATION: The Commission's authority to issue this notice is based on 19 U.S.C. 1335 and 5 CFR part 2638.

Under Title VII of the Tariff Act of 1930, as amended, U.S. industries may petition the U.S. Department of Commerce (''Commerce'') and the U.S. International Trade Commission (''Commission'') for relief from imports that are sold in the United States at less than fair value (''dumped'') or that benefit from countervailable subsidies provided through foreign government programs. If Commerce and the Commission make final affirmative determinations that dumped and/or subsidized imports are injuring or threaten to injure a domestic industry in the United States an antidumping duty or countervailing duty order will be issued. For the purposes of this notice, such investigations are considered to be ''underlying original investigations.''

In 1994, Congress passed the Uruguay Round Agreements Act, which added the requirement to Title VII of the Tariff Act of 1930 (19 U.S.C. 1671 *et seq.* and 1673 *et seq.*) that five years after the date of publication of a countervailing duty order, an antidumping order, or a notice of suspension of an investigation, the Department of Commerce (''Commerce'') and the Commission shall conduct a review to determine, in accordance with 19 U.S.C. 1675(c), whether revocation of the countervailing or antidumping duty order or termination of the investigation suspended under 19 U.S.C. 1671c or 1673c would likely lead to continuation or recurrence of dumping or a countervailable subsidy and material injury. The statute, 19 U.S.C. 1675a, mandates that certain information and factors be considered by Commerce and the Commission respectively in reaching their review determinations. 19 U.S.C. 1675a(a)(1)(A) requires the Commission to take into account, among other factors, ''its prior injury determinations, including the volume, price effect, and impact of imports of the subject merchandise on the industry before the order was issued or the suspension agreement was accepted.'' In compliance with this provision, the Commission adds to the record of the review the Commission's published opinion and the Commission's staff report from the final phase of each original investigation.

Beginning in 1996, when questions were first raised about the effect of post employment laws and regulations on former employees seeking to represent parties in five-year reviews, the Commission's Designated Agency Ethics Official (''DAEO'') advised former employees, after consideration of the relevant post employment and title VII statutes and regulations and consultation with the Office of Government Ethics (''OGE''), that the five-year review would be considered the ''same particular matter'' as the underlying original investigation for the application of the post-employment law, 18 U.S.C. 207, and Commission rule 201.15(b) (19 CFR 201.15(b)). Thus, a former employee who had worked personally and substantially on an underlying original investigation while a Commission employee could not represent a party in the corresponding five-year review after leaving the Commission. In addition, because the underlying investigation and the review were considered to be the same matter under 19 CFR 201.15(b), former employees who worked at the Commission while the underlying investigation was pending, even if they did not work on that investigation, were required to seek Commission approval to appear in such review.

As a result of the Commission's experience gained in administering the five-year review provisions of the law, and more specifically the experience in the second set of five-year reviews, which commenced in 2004, the Commission's DAEO has reassessed the previous advice given to former employees and has determined that an underlying original investigation should no longer be considered to be the same particular matter as any five-year review of the corresponding order.

As part of this reassessment, the Commission's DAEO sought an opinion from the Office of Government Ethics (''OGE''). On March 27, 2008, OGE issued an informal advisory letter (''2008 Opinion'') concluding that ''first, second and subsequent reviews are not the same particular matter involving specific parties as the underlying original investigation leading to the original order.''

A. Initial Conclusion

The initial conclusion in 1996 that a first review was the same particular matter as the underlying original investigation was based on the definition of ''same particular matter'' found in OGE's regulations, 5 CFR part 2637, and in its published summary of post employment restrictions, which was issued in 1992. OGE's regulation interpreting the ''same particular matter'' (5 CFR 2637.201(c)(4)) states that ''[t]he same particular matter may continue in another form or in part.'' In determining whether two particular matters are the same, ''the agency should consider the extent to which the matters involved the same basic facts, related issues, the same or related parties, time elapsed, the same confidential information, and the continuing existence of an important Federal interest.'' Analyzing these factors in light of the statutory mandate that the Commission consider its prior injury determinations in reaching its determination in a five-year review, 19 U.S.C. 1675a(a)(1)(A), the Commission's DAEO at the time concluded and OGE confirmed in a 1999 informal advisory letter, OGE 99x14(2), that a review is the same particular matter as the underlying original investigation because the records of the original investigation and the review would contain much of the

same basic facts and the same confidential information.

B. The Commission's Experience Conducting Reviews

The earlier view that the records of the review and underlying original investigation would largely involve the same basic facts and the same confidential information was necessarily formed without the benefit of the Commission's subsequent experience. Since 1999, when the earlier advisory opinion was issued by OGE, the Commission has conducted more than 175 reviews. With regard to the factors outlined in OGE's regulations defining ''same particular matter,'' this experience has shown that a review differs in important respects from the underlying original investigation. Developments in the markets and industries that occur during the lapse of time between the original investigation and the review are an especially significant factor.

The Commission's experience with reviews has shown that although the volume, price effect, and impact of the imports on the industry before the order was in place must be taken into account, the key information frequently relied upon to reach the required forward-looking determination in a five-year review regarding the likely volume, price effect, and impact of the imports on the domestic industry in the event of revocation is the most current information that is developed on the record as part of the five-year review process.

C. In Conclusion

In accordance with the DAEO's interpretation of both the statute and the Commission's experience in five-year reviews, which was confirmed in OGE's 2008 Opinion (that a five-year review is not the same particular matter as the underlying original investigation), appearances of former employees in Commission five-year reviews will be treated under 18 U.S.C. 207 as appearances that are not in the same particular matter as the underlying investigation. In addition, the Commission has traditionally applied 19 U.S.C. 201.15(b) consistently with the application of 18 U.S.C. 207 and will do so in this situation. Therefore, a review will not be considered to be the same matter as the underlying original investigation pursuant to section 201.15(b). Consequently, former employees no longer need to seek approval from the Commission to appear in a review even if the underlying original investigation had been pending while they were employees.

Issued: April 29, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–9760 Filed 5–2–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–453 and 731–TA–1136–1137 (Final)]

Sodium Nitrite From China and Germany

AGENCY: United States International Trade Commission.

ACTION: Scheduling of the final phase of countervailing duty and antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of countervailing duty investigation No. 701–TA–453 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act) and the final phase of antidumping investigation Nos. 731–TA–1136–1137 (Final) under section 735(b) of the Act (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized and less-than-fair-value imports from China and Germany of sodium nitrite, provided for in subheading 2834.10.10 of the Harmonized Tariff Schedule of the United States.[1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

DATES: *Effective Date:* April 23, 2008.

FOR FURTHER INFORMATION CONTACT: Dana Lofgren (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*http://www.usitc.gov*). The public record for these investigations may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background. The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 703 of the Act (19 U.S.C. 1671b) are being provided to manufacturers, producers, or exporters in China of sodium nitrite, and that such products from China and Germany are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigations were requested in a petition filed on November 8, 2007, by General Chemical LLC, of Parsippany, NJ.

Participation in the investigations and public service list. Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations,

[1] For purposes of these investigations, the Department of Commerce has defined the subject merchandise as ''sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by this investigation may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. The chemical composition of sodium nitrite is $NaNO_2$.'' Commerce has further indicated that the American Chemical Society Chemical Abstract Service (CAS) registry number is 7632–00–0.

provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on June 18, 2008, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on July 2, 2008, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before June 26, 2008. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on June 30, 2008, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

Written submissions. Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is June 25, 2008. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is July 10, 2008; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigations may submit a written statement of information pertinent to the subject of the investigations, including statements of support or opposition to the petition, on or before July 10, 2008. On August 4, 2008, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before August 6, 2008, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means, except to the extent permitted by section 201.8 of the Commission's rules, as amended, 67 FR 68036 (November 8, 2002). Even where electronic filing of a document is permitted, certain documents must also be filed in paper form, as specified in II(C) of the Commission's Handbook on Electronic Filing Procedures, 67 FR 68168, 68173 (November 8, 2002).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

Issued: April 29, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E8–9772 Filed 5–2–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–645]

In the Matter of Certain Vein Harvesting Surgical Systems and Components Thereof; Notice of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 1, 2008, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Maquet Cardiovascular LLC of San Jose, California. The complaint was supplemented on April 22, 2008. The complaint alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vein harvesting surgical systems and components thereof by reason of infringement of certain claims of U.S. Patent No. Re. 36,043 and U.S. Patent No. 6,830,546. The complaint further alleges that an industry in the United States exists as required by subsection (a)(2) of section 337.

The complainant requests that the Commission institute an investigation and, after the investigation, issue an exclusion order and cease and desist orders.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Room 112, Washington, DC 20436, telephone 202–205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: T. Spence Chubb, Office of Unfair Import

Investigations, U.S. International Trade Commission, telephone (202) 205–2575.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2007).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on April 25, 2008, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain vein harvesting surgical systems or components thereof by reason of infringement of one or more of claims 22, 26, 28, and 49 of U.S. Patent No. Re. 36,043 and claims 1–4 and 7–9 of U.S. Patent No. 6,830,546, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Maquet Cardiovascular L.L.C., 170 Baytech Drive, San Jose, CA 95134.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Terumo Corporation, 44–1, 2 C-chome, Hatagaya, Shibuya-ku, Tokyo, 151–0072, Japan.

Terumo Cardiovascular Systems Corporation, 6200 Jackson Road, Ann Arbor, MI 48103.

(c) The Commission investigative attorney, party to this investigation, is T. Spence Chubb, Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Honorable Carl C. Charneski is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

Issued: April 28, 2008.

By order of the Commission.

Marilyn R. Abbott,

Secretary of the Commission.

[FR Doc. E8–9705 Filed 5–2–08; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–08–009]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: May 14, 2008 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: None.
2. Minutes.
3. Ratification List.
4. Inv. No. 731–TA–1121 (Final) (Light-Walled Rectangular Pipe and Tube from Turkey)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before May 23, 2008.)
5. Outstanding Action Jackets: None.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

Issued: April 30, 2008.

By Order of the Commission.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E8–9885 Filed 5–2–08; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on April 25, 2008, a proposed Settlement Agreement in *United States and the State of Montana* v. *ASARCO LLC, Atlantic Richfield Company (''Arco''), and Arco Environmental Remediation LLC*, No. 6:08–CV–00030 DWM, was lodged with the United States District Court for the District of Montana, Helena Division.

In this action the United States and the State of Montana alleged claims for injunctive relief, recovery of response costs, and recovery of natural resource damages in connection with the release and threats of release of hazardous substances at and from the Mike Horse Mine and surrounding area (''Site'') in Lewis and Clark County, Montana, pursuant to sections 106, 107 and 113(f) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9606, 9607 & 9613(f); sections 301(a), 309(b) and 311 of the Clean Water Act (''CWA''), 33 U.S.C. 1311(a), 1319(b) & 1321; and section 7003 of the Resource Conservation and Recovery Act (''RCRA''), 42 U.S.C. 6973. The State also alleged claims under the Montana Comprehensive Environmental Cleanup and Responsibility Act (''CECRA''), Mont. Code Ann. sections 75–10–701, *et seq.*, and the Montana Water Quality Act (''WQA''), Mont. Code Ann. sections 75–5–101, *et seq.*

The Settlement Agreement, which is subject to the district court's approval, requires among other things that the settlers pay $17 million in cash. Of this sum, ASARCO LLC will pay $8.5 million and Arco and Arco Environmental Remediation LLC will pay $8.5 million. From these initial cash payments, $1 million will be paid to the Forest Service in reimbursement of response costs expected to be incurred in oversight of response actions. The remainder will be paid to the State. The State will use the funds to perform response action and natural resource restoration. In addition, ASARCO LLC has agreed to an allowed general unsecured claim of $20 million to be paid out in accordance with the terms

of plan confirmation. Of that sum, $19,771,554.00 will be the State's allowed claim to be used for additional response action and natural resource damage restoration work. The remaining $228,446.00, which is the full amount of the Forest Service's past response costs excluding interest, will be the Forest Service's allowed claim.

The Settlement Agreement is also subject to bankruptcy court approval in *Matter of ASARCO LLC, et al.*, No. 05–21207 (Bankr. S.D. Tex.).

The Department of Justice will receive comments relating to the Settlement Agreement for a period of thirty (30) days from the date of this publication. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611. In either case, the comments should refer to *United States* v. *ASARCO, LLC., Arco, and Arco Envtl. Remediation*, No. 6:08–CV–00030, DJ No. 90–11–3–09141/1. Commenting parties may request an opportunity for a public meeting in the affected area, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The Settlement Agreement may be examined at the Office of the United States Attorney, District of Montana, Western Security Bank Building, 2929 3rd, Billings, MT 59101, (406) 657–6101. During the public comment period, the Settlement Agreement may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html*. A copy of the Settlement Agreement 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 $11.50 (25 cents per page reproduction cost) payable to the United States Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Robert E. Maher Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. E8–9766 Filed 5–2–08; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Planning Guidance for State Unified Plans Submitted Under Section 501 of the Workforce Investment Act of 1998 (WIA); Extension With Changes of Approved Collection; Comment Request

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 Employment and Training Administration is soliciting comments concerning the proposed extension with changes of the collection for the Planning Guidance for State Unified Plans submitted under Section 501 of the Workforce Investment Act of 1998 (WIA). A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or by accessing: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm.*

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before July 7, 2008.

ADDRESSES: Submit written comments to the Employment and Training Administration, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Janet Sten, Room C–4510 Telephone number: 202–693–3045 (this is not a toll-free number). Fax: 202–693–3015. E-mail: *Sten.Janet@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this notice is to provide interested parties with the Planning Guidance for use by States in submitting their Strategic State Plan for title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act. The Planning Guidance and Instructions provide a framework for the collaboration of governors, local elected officials, businesses and other partners to continue the development of workforce investment systems that address customer needs, deliver integrated user-friendly services, and are accountable to the customers and the public.

The changes to this collection include a revision to the National Strategic Direction which introduces the information collection. This Strategic Direction was previously published in Training and Employment Guidance Letter 13–06. There are also technical changes in the actual information collection, the State Planning Instructions, to reflect statutory changes in other Federal agencies' programs that are included in the Unified Plan including the reauthorization of the Perkins Act.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- 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 clarify 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.

III. Current Actions

Type of Review: Extension with changes of approved collection.

Agency: Employment and Training Administration.

Title: Planning Guidance for State Unified Plans submitted under Section 501 Workforce Investment Act of 1998 (WIA).

OMB Number: 1205–0407.

Affected Public: State, Local or Tribal Governments.

Total Respondents: 3.

Total Responses: 3.

Average Time per Response: 50 hours.

Estimated Total Burden Hours: 150.

Total Burden Cost: 0.

Comments submitted in response to this comment request 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: April 25, 2008.

Gay M. Gilbert,

Administrator, Office of Workforce Investment, Employment and Training Administration.

[FR Doc. E8–9837 Filed 5–2–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Planning Guidance and Instructions for Submission of the Strategic State Plan for Title I of the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act; Extension With Changes to Approved Collection; Comment Request

AGENCY: Employment and Training Administration, Department of Labor.

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 Employment and Training Administration is soliciting comments concerning an extension with changes of the collection for the Planning Guidance and Instructions for Submission of the Strategic State Plan for title I of the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act.

A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or by accessing: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm.*

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before July 7, 2008.

ADDRESSES: Submit written comments to the Employment and Training Administration, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Janet Sten, Room C–4510 Telephone number: 202–693–3045 (this is not a toll-free number). Fax: 202–693–3015. E-mail: *Sten.Janet@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The purpose of this notice is to provide interested parties with the Planning Guidance for use by States in submitting their Strategic State Plan for title I of the Workforce Investment Act of 1998 and the Wagner-Peyser Act. The Planning Guidance and Instructions provide a framework for the collaboration of governors, local elected officials, businesses and other partners to continue the development of workforce investment systems that address customer needs, deliver integrated user-friendly services, and are accountable to the customers and the public.

The changes to this collection include a revision to the National Strategic Direction which introduces the information collection. This Strategic Direction was previously published in Training and Employment Guidance Letter 13–06. There are also minor technical and grammatical changes in the actual information collection, the State Planning Instructions.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- 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.

III. Current Actions

Type of Review: Extension with changes of approved collection.

Agency: Employment and Training Administration.

Title: Planning Guidance and Instructions for Submission of the Strategic State Plan for title I of the Workforce Investment Act of 1998 (WIA) and the Wagner-Peyser Act.

OMB Number: 1205–0398.

Affected Public: [State, Local or Tribal Governments].

Total Respondents: 56.

Total Responses: 56.

Average Time per Response: 50 hours.

Estimated Total Burden Hours: 2,800 Hours.

Total Burden Cost: $0.

Comments submitted in response to this comment request 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: April 25, 2008.

Gay M. Gilbert,

Administrator, Office of Workforce Investment, Employment and Training Administration.

[FR Doc. E8–9838 Filed 5–2–08; 8:45 am]

BILLING CODE 4510–FN–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

Time and Date: 10 a.m., Thursday, May 15, 2008.

Place: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

Status: Open.

Matters To Be Considered: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Phelps Dodge Tyrone, Inc.,* Docket No. CENT 2006–212–RM. (Issues include whether the Administrative Law Judge erred in concluding that an unplanned fire that was not extinguished within 30 minutes occurred and therefore that the operator violated the requirement of 30 CFR 50.10 that such an accident be reported to MSHA within 15 minutes.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

Contact Person for More Info: Jean Ellen (202) 434–9950 / (202) 708–9300

for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. E8–9765 Filed 5–2–08; 8:45 am]

BILLING CODE 6735–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Intent To Seek Approval To Extend a Current Information Collection

AGENCY: National Science Foundation.

ACTION: Notice and Request for Comments.

SUMMARY: Under the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3501 *et seq.*), and as part of its continuing effort to reduce paperwork and respondent burden, the National Science Foundation (NSF) is inviting the general public or other Federal agencies to comment on this proposed continuing information collection. The National Science Foundation (NSF) will publish periodic summaries of the proposed projects.

Comments: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Foundation, including whether the information will have practical utility; (b) the accuracy of the Foundation's estimate of the burden of the proposed collection of information; (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 automated collection techniques or other forms of information technology.

DATES: Written comments on this notice must be received by July 7, 2008 to be assured consideration. Comments received after that date will be considered to the extent practicable. Send comments to address below.

FOR FURTHER INFORMATION CONTACT: Ms. Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230; telephone (703) 292–7556; or send e-mail to *splimpto@nsf.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION:

Title of Collection: Survey of Graduate Students and Postdoctorates in Science and Engineering.

OMB Approval Number: 3145–0062.

Expiration Date of Approval: July 31, 2008.

Type of Request: Intent to seek approval to extend an information collection for three years.

1. Abstract

The Survey of Graduate Students and Postdoctorates in Science and Engineering (GSS) is sponsored by the National Science Foundation and the National Institutes of Health. The GSS originated in 1966 and has been conducted annually since 1972. The GSS is a census of all departments in science, engineering and health fields within academic institutions with post-baccalaureate programs in the United States. The total number of respondents surveyed in 2006, the last year for which complete response rate data are available, was 12,321 departments located in 707 schools (reporting units) at 586 degree-granting institutions. The GSS is the only national survey that collects information on the characteristics of graduate enrollment for specific science, engineering and health disciplines at the department level. It collects information on race/ethnicity, citizenship, gender, sources of support, mechanisms of support, and enrollment status for graduate students; and gender, citizenship and sources of support for postdoctorates. It also collects counts by gender of other non-faculty research staff with doctorates.

The National Science Foundation Act of 1950, as subsequently amended, includes a statutory charge to ''* * *provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources, and to provide a source of information for policy formulation by other agencies of the Federal Government.'' The GSS is designed to comply with these mandates by providing information on the characteristics of academic graduate enrollment and postdoctoral components in science, engineering and health fields.

The GSS (along with other academic sector surveys from both NSF and the National Center of Education Statistics) is one of the inputs into the WebCASPAR data system. Among other uses, this NSF on-line database is used by NSF to review changing enrollment levels to assess the effects of NSF initiatives, to track student support patterns and to analyze participation in S&E fields by targeted groups for all disciplines or for selected disciplines and for selected groups of institutions.

The Foundation also uses the GSS information to prepare congressionally mandated reports such as *Women, Minorities and Persons with Disabilities in Science and Engineering and Science and Engineering Indicators.* A public use file is also made available on the world-wide Web.

Data are obtained primarily by Web survey (with paper worksheets made available upon request) and starts each fall in mid-October. The data are solicited under the authority of the National Science Foundation Act of 1950, as amended. All information will be used for statistical purposes only. Participation in the survey is voluntary.

2. Expected Respondents

The GSS is census of all eligible academic institutions in the U.S. with post-baccalaureate programs in science, engineering and health fields and their related departments. The response rate is calculated on the number of departments that respond to the survey.

3. Estimate of Burden

The initial GSS data request is sent to the designated respondent (School Coordinator) at each academic institution in the fall. The School Coordinator may complete or delegate all or part of forms 811 (listing of eligible departments, programs, research centers and health care facilities) and 812 (data collection form). In all cases, the School Coordinator is responsible for the Form 811. Usually, the School Coordinator delegates the Form 812 to departmental respondents. The amount of time it takes to provide the information on Forms 811 and 812 varies dramatically and depends to a large degree on the extent to which the school's records are centrally stored and computerized.

The 2007 GSS asked the School Coordinators to provide an estimate of the time spent in filling out Form 811 and the department respondents to estimate the time spent completing Form 812. The School Coordinators estimated the burden for completing Form 811 as 4.13 hours per school and the department respondents estimated 2.07 hours per department for completing Form 812. Using the 2007 estimates for the time required for the two forms and using the current 2007 number of schools (700) and departments (12,671) and assuming the same response rates as 2006 (96% for the schools and 97% for the departments), the total estimated respondent burden of the GSS would be 28,217 hours annually, for a total of

84,652 hours over the 3-year clearance period.

Dated: April 30, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E8–9783 Filed 5–2–08; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271; License No. DPR–28]

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc.; Notice of Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a Director's Decision with regard to a petition dated August 27, 2007, filed pursuant to Title 10 of the Code of Federal Regulations (CFR), § 2.206, by Mr. Raymond Shadis on behalf of the New England Coalition (NEC), hereinafter referred to as the ''petitioner.'' The petition was supplemented on October 3, 2007. The NEC petition requested that the Nuclear Regulatory Commission (NRC or the Commission) promptly restore reasonable assurance of adequate protection of public health and safety that is now degraded by the failure of the licensee and its employees to report adverse conditions leading to a reduction in plant safety margins at the Vermont Yankee Nuclear Power Station (Vermont Yankee), or otherwise to order a derate or shutdown of Vermont Yankee until it can be determined to what extent Vermont Yankee is being operated in an unanalyzed condition. Specifically, the petition requested the following actions: (1) NRC completion of a Diagnostic Evaluation Team examination or Independent Safety Assessment of Vermont Yankee to determine the extent of condition of non-conformances, reportable items, hazards to safety, and the root causes thereof; (2) NRC completion of a safety culture assessment to determine why worker safety concerns were not previously reported and why assessments of safety culture under the Reactor Oversight Process failed to capture the fact or reasons that safety concerns have gone unreported; (3) derate Vermont Yankee to 50% of licensed thermal power with a mandatory hold at 50% until a thorough and detailed structural and performance analysis of the cooling towers, including the alternate cooling system, has been completed by the licensee; reviewed and approved by NRC; and until the above steps (1) and (2) have been completed; and (4) NRC investigation and determination of whether or not similar non-conforming conditions and causes exist at other Entergy-run nuclear power plants. On September 6, 2007, the NRC staff notified the petitioner that, based on the recommendation of the Petition Review Board (PRB), the request for immediate action to derate or shutdown Vermont Yankee was denied because the petition did not identify any safety hazards sufficient to warrant those actions.

Mr. Raymond Shadis, in his capacity as the petitioner's consultant, participated in two telephone conference calls with the NRC's PRB on September 12, 2007, and October 3, 2007, to discuss the petition. Those discussions were considered in reaching the PRB's final recommendation regarding the petitioner's request for action and in establishing the schedule for the review of the petition. The PRB confirmed its initial recommendation to reject requests (1), (2), and (4) for review under the Section 2.206 process and accept a portion of request (3) related to the cooling tower cell collapse.

In an acknowledgment letter dated November 6, 2007, the NRC informed the petitioner that the petition was accepted, in part, for review under 10 CFR 2.206, and had been referred to the Office of Nuclear Reactor Regulation for appropriate action. The petitioner's request to derate Vermont Yankee was denied, but the petition was granted, in part, by the NRC staff's review of Entergy's evaluation and analysis of the partial cooling tower collapse and associated causes.

The NRC staff sent a copy of the proposed Director's Decision to the petitioner for comment on February 29, 2008. The NRC staff did not receive any comments on the proposed DD.

The Director of the Office of Nuclear Reactor Regulation has determined that the NRC has in effect granted the petitioner's request. The reasons for this decision are explained in the Director's Decision pursuant to 10 CFR 2.206 (DD–08–01). The petitioner's concern regarding the partial collapse of the cooling tower cell at Vermont Yankee has been adequately resolved such that no further action is needed.

The documents cited in this Director's Decision are available for inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland and from the NRC's Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.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.*

A copy of the Director's Decision will be filed with the Secretary of the Commission for the Commission to review in accordance with 10 CFR 2.206 of the Commission's regulations. As provided for by this regulation, the Director's Decision will constitute the final action of the Commission 25 days after the date of the decision, unless the Commission, on its own motion, institutes a review of the Director's Decision within that time.

Dated at Rockville, Maryland, this 28th day of April 2008.

For the Nuclear Regulatory Commission.

J.E. Dyer,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. E8–9798 Filed 5–2–08; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Southern Nuclear Operating Company; Notice of Receipt and Availability of Application for a Combined License

On March 31, 2008, Southern Energy Operating Company (SNC), acting on behalf of itself and Georgia Power Company, Oglethorpe Power Corporation (an Electric Membership Corporation), Municipal Electric Authority of Georgia, and the City of Dalton, Georgia, an incorporated municipality in the State of Georgia acting by and through its Board of Water, Light and Sinking Fund Commissioners (Dalton Utilities), herein referred to as the applicant, filed with the U.S. Nuclear Regulatory Commission (NRC, the Commission) pursuant to Section 103 of the Atomic Energy Act and Title 10 of the Code of Federal Regulations (10 CFR) Part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants,'' an application for combined licenses (COLs) for two AP1000 advanced passive pressurized water reactors at the Vogtle Electric Generating Plant (VEGP) site located in Burke County, Georgia. The reactors are to be identified as VEGP Units 3 and 4 and will occupy that portion of the VEGP site for which SNC is seeking an Early Site Permit (ESP).

An applicant may seek a COL in accordance with Subpart C of 10 CFR Part 52. The information submitted by the applicant includes certain administrative information, such as financial qualifications submitted pursuant to 10 CFR 52.77, as well as technical information submitted pursuant to 10 CFR 52.79.

Subsequent **Federal Register** notices will address the acceptability of the tendered COL application for docketing and provisions for participation of the public in the COL review process.

A copy of the application is available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area O1 F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and via the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room on the Internet at the NRC Web site, *http://www.nrc.gov/reading-rm/adams.html*. The accession number for the application cover letter is ML081050133. Future publicly available documents related to the application will also be posted in ADAMS. Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC Public Document Room staff by telephone at 1–800–397–4209 or 301–415–4737, or by e-mail to *pdr@nrc.gov*. The application is also available at *http://www.nrc.gov/reactors/new-licensing/col.html*.

Dated at Rockville, Maryland, this 29th day of April, 2008.

For the Nuclear Regulatory Commission.

Manny M. Comar,

Senior Project Manager, AP10000 Projects Branch 1, Division of New Reactor Licensing, Office of New Reactor.

[FR Doc. E8–9792 Filed 5–2–08; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a New Information Collection: Specific Medical Release (INV 16A) and Customer Consent and Authorization for Access to Financial Records (INV 16B)

AGENCY: U.S. Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget (OMB) a request for review of a NEW information collection. The INV 16A, Specific Medical Release, and INV 16B, Authorization for Access to Financial Records, are used continuously by Federal and contract investigators as a routine part of background investigations. The collection is completed when it is determined that further inquiry into the respondents' medical record is needed pertaining to mental health counseling and/or drug/alcohol treatment OR upon an affirmative answer on the Standard Form (SF) 86 or SF 85PS regarding mental health. The Customer Consent and Authorization for Access to Financial Records (INV 16B) is used by Federal agencies when conducting a credit inquiry on federal and contract employees, as well as military personnel, who are working in support of Federal Government programs and contracts. The INV 16A and INV 16B will replace current forms OFI 16A; OPM Form 329; OPM Form 329–A; OPM Form 329–B; and OPM 329–C. Previous editions of related forms are not usable.

Comments Are Particularly Invited On:

- Whether this information is necessary for the proper performance of functions of the OPM and its Federal Investigative Services Division, which administers background investigations;
- Whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology;
- 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; and
- Ways in which we can enhance the quality, utility, and clarity of the information to be collected.

The INV 16A and INV 16B are completed by both employees of the Federal Government and individuals not employed with the Federal Government, including Federal contractors, and military personnel.

Federal employees are defined as those individuals who are employed as civilians or military personnel with the Federal Government. Non-Federal employees include members of the general public and all individuals employed as Federal and military contractors, or individuals otherwise not directly employed by the Federal Government.

Approximately 45,500 INV 16A and 210,000 INV 16B forms will be completed annually by non-Federal individuals. Each form requires approximately 5 minutes to complete. The annual estimated burden is 3,800 and 17,500 hours for the 16A and 16B respectively.

For copies of this proposal, contact Mary Beth Smith-Toomey on (202) 606–8358, FAX (202) 418–3251 or via E-mail to *mbtoomey@opm.gov*. Please include a mailing address with your request.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Kathy Dillaman, Associate Director, Federal Investigative Services Division, U.S. Office of Personnel Management, 1900 E Street, NW., Room 5416, Washington, DC 20415.

For Information Regarding Administrative Coordination—Contact: Mary-Kay Brewer, Program Analyst, Standards and Evaluations Group, Federal Investigative Services Division, U.S. Office of Personnel Management, (202) 606–1835.

U.S. Office of Personnel Management.

Howard Weizmann,

Deputy Director.

[FR Doc. E8–9748 Filed 5–2–08; 8:45 am]

BILLING CODE 6325–53–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:
Regulation S–T; OMB Control No. 3235–0424, SEC File No. 270–375.

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 (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Regulation S–T (17 CFR 232.10–232.313 and 232.401–232.402 and 232.501) sets forth the filing requirements relating to the submission of documents in electronic format on the Electronic Data Gathering, Analysis,

and Retrieval (''EDGAR'') system. Regulation S–T is only assigned one burden hour for administrative convenience because it does not directly impose any information collection requirements.

Written 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 imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: April 28, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9824 Filed 5–2–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Investor Education and Advocacy, Washington, DC 20549–0213.

Extension:

Rule 236; OMB Control No. 3235–0095; SEC File No. 270–118.

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 (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 236 (17 CFR 230.236) under the Securities Act of 1933 (''Securities Act'') (15 U.S.C. 77a *et seq.*) requires issuers choosing to rely on an exemption from Securities Act registration for the issuance of fractional shares, scrip certificates or order forms, in connection with a stock dividend, stock split, reverse stock split, conversion, merger or similar transaction, to furnish specified information to the Commission in writing at least 10 days prior to the offering. The information is needed to provide public notice that an issuer is relying on the exemption. Public companies are the likely respondents. Approximately 10 respondents file the information required by Rule 236 at an estimated 1.5 hours per response for a total of 15 annual burden hours.

Written 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 imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (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. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to R. Corey Booth, Director/Chief Information Officer, Securities and Exchange Commission, C/O Shirley Martinson, 6432 General Green Way, Alexandria, Virginia 22312; or send an e-mail to: *PRA_Mailbox@sec.gov*.

Dated: April 28, 2008.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9825 Filed 5–2–08; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57735; File No. SR–BSE–2008–16]

Self-Regulatory Organizations; Boston Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To List and Trade Options on Index Multiple ETFs and Index Inverse ETFs

April 29, 2008.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on April 25, 2008, the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by the Exchange. The Exchange filed the proposed rule change as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Rules of the Boston Options Exchange (''BOX'') to permit the initial and continued listing and trading on BOX of options on Index Multiple Exchange Traded Fund Shares (''Index Multiple ETFs'') and Index Inverse Exchange Traded Fund Shares (''Index Inverse ETFs''). The text of the proposed rule change is available at the principal office of the Exchange, the Commission's Public Reference Room, and *http://www.bostonstock.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange 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 IV below. BSE 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

The purpose of the proposed rule change is to amend Sections 3 and 4 of Chapter IV of the BOX Rules to enable the listing and trading on BOX of options on Index Multiple ETFs and Index Inverse ETFs. An Index Multiple

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

ETF seeks to provide investment results, before fees and expenses, that correspond to a specified multiple of the percentage performance on a given day of a particular foreign or domestic stock index. An Index Inverse ETF seeks to provide investment results, before fees and expenses, that correspond to the inverse (opposite) of the percentage performance on a given day of a particular foreign or domestic stock index by a specified multiple. Index Multiple ETFs and Index Inverse ETFs differ from traditional ETFs in that they do not merely correspond to the performance of a given index, but rather attempt to match a multiple or inverse of such underlying index performance. The ProShares Ultra Funds, which currently trade on the American Stock Exchange (''Amex''), are examples of Index Multiple ETFs. The ProShares Short Funds and Ultra Short Funds, which are also currently listed for trading on Amex, are examples of Index Inverse ETFs.[5]

To achieve investment results that provide either a positive multiple or inverse of the benchmark index, Index Multiple ETFs or Index Inverse ETFs may hold a combination of financial instruments, including, among other things: Stock index futures contracts; options on futures; options on securities and indexes; equity caps, collars, and floors; swap agreements; forward contracts; repurchase agreements; and reverse repurchase agreements (collectively, ''Financial Instruments''). The underlying portfolio of an Index Multiple ETF generally will hold at least 85% of its assets in the component securities of the underlying relevant benchmark index. The remainder is devoted to Financial Instruments that are intended to create the additional exposure to the underlying index necessary to pursue its investment objective. Typically, 100% of the value of the portfolio underlying the Index Inverse ETF will be devoted to Financial Instruments and money market instruments, including U.S. government securities and repurchase agreements (the ''Money Market Instruments'').

Currently, Section 3(i) of Chapter IV of the BOX Rules provides securities deemed appropriate for options trading shall include shares or other securities (''Fund Shares'')[6] that represent interests in registered investment companies (or series thereof) organized as open-end management investment companies, unit investment trusts or similar entities. These are principally traded on a national securities exchange or through the facilities of a national securities association and are defined as an ''NMS stock'' under Rule 600 of Regulation NMS, and that hold portfolios of securities comprising or otherwise based on or representing investments in broad-based indexes or portfolios of securities (or that hold securities in one or more other registered investment companies that themselves hold such portfolios of securities) (''Funds'').

The Exchange proposes to amend section 3 of Chapter IV of the BOX Rules to expand the type of options that can be listed and traded to include options based on Index Multiple ETFs and Index Inverse ETFs that may hold or invest in any combination of securities, Financial Instruments, and/or Money Market Instruments. Index Multiple ETFs and Index Inverse ETFs on which Exchange-listed options are based must continue to otherwise satisfy the listing standards of section 3(i) of Chapter IV of the BOX Rules. The Exchange also proposes to make non-substantive, clarifying changes to section 3(i) of Chapter IV of the BOX Rules by conforming the construction of this rule to those of Amex and the International Securities Exchange (''ISE''). The Exchange notes that these changes are not significant, and do not substantively alter the listing standards found in section 3 of Chapter IV of the BOX Rules. Accordingly, in addition to certain repositioning of existing rule text, the Exchange also proposes to remove the reference to a ''national securities association'' in section 3(i) of Chapter IV.

As set forth in proposed amended section 3(i) of Chapter IV of the BOX Rules, an Index Multiple ETF or Index Inverse ETF on which an Exchange-listed option is based must be traded on a national securities exchange and must be an ''NMS stock'' as defined under Rule 600 of Regulation NMS. In addition, such Index Multiple ETF and Index Inverse ETF must meet either: (1) The criteria and guidelines set forth in paragraphs (a) and (b) of section 3, Chapter IV of the BOX Rules; or (2) be available for creation or redemption each business day from or through the issuing trust, investment company, or other entity in cash or in kind at a price related to net asset value. The investment company shall provide that shares may be created even though some or all of the securities and/or cash (in lieu of Financial Instruments) needed to be deposited have not been received by the investment company, provided that the person obligated to deposit the investment assets has undertaken to deliver the shares and/or cash as soon as possible and such undertaking has been secured by the delivery and maintenance of collateral consisting of cash or cash equivalents satisfactory to the issuer of the fund shares, all as described in the fund shares' prospectus.

Additionally, the Fund Shares must also meet all of the following conditions: (1) Any non-U.S. component securities of the index or portfolio of securities on which the Fund Shares are based that are not subject to comprehensive surveillance agreements do not in aggregate represent more than 50% of the weight of the index or portfolio; (2) component securities of an index or portfolio of securities on which the Fund Shares are based for which the primary market is in any one country that is not subject to a comprehensive surveillance agreement do not represent 20% or more of the weight of the index; and (3) component securities of an index or portfolio of securities on which the Fund Shares are based for which the primary market is in any two countries that are not subject to comprehensive surveillance agreements do not represent 33% or more of the weight of the index.[7]

The Exchange also proposes to amend section 4(h) of Chapter IV of the BOX Rules to indicate that the index or portfolio may consist of, among other things, securities, Financial Instruments and/or Money Market Instruments. In proposing to make the Exchange's Rules conform to those of the Amex and ISE, the Exchange also seeks to delete reference to ''national securities association'' set forth in section 4(h) of Chapter IV of the BOX Rules.

Under the applicable continued listing criteria for section 4(h) of

[5] The Ultra Funds are expected to gain, on a percentage basis, approximately twice (200%) as much as the underlying benchmark index and should lose approximately twice (200%) as much as the underlying benchmark index when such prices decline. The Short Funds are expected to achieve investment results, before fees and expenses, that correspond to the inverse or opposite (−100%) of the daily performance of an underlying benchmark index. Lastly, the UltraShort Funds are expected to achieve investment results, before fees and expenses, that correspond to twice the inverse or opposite (−200%) of the daily performance of the underlying benchmark index. *See* Securities Exchange Act Release No. 52553 (October 3, 2005), 70 FR 59100 (October 11, 2005) (SR–Amex–2004–62). *See also* Securities Exchange Act Release No. 54040 (June 23, 2006), 71 FR 37629 (June 30, 2006) (SR–Amex–2006–41).

[6] The Exchange also proposes to make technical conforming changes to its current Sections 3, 4, and 6 of Chapter IV and Section 3 of Chapter V of the BOX Rules to those of ISE and Amex. As a result, and in the context of this filing, the Exchange refers to Fund Shares as Exchange-Traded Fund Shares hereafter.

[7] *See* existing Section 3(i) of Chapter IV of the BOX Rules, items (i) to (iii).

Chapter IV of the BOX Rules, options on Fund Shares may be subject to the suspension of opening transactions as follows:

- Following the initial 12-month period beginning with the commencement of trading of the Fund Shares, there are fewer than 50 record and/or beneficial holders of the Fund Shares for 30 or more consecutive trading days;
- The value of the index or portfolio of securities and/or Financial Instruments and Money Market Instrument, on which the Fund Shares are based is no longer calculated or available; or
- Such other event occurs or condition exists that in the opinion of the Exchange makes further dealing on the Exchange inadvisable.

Additionally, an Index Multiple ETF or Index Inverse ETF shall not be deemed to meet requirements for continued approval, and the Exchange shall not open for trading any additional series of option contracts of the class covering such ETF, if: (1) The underlying ETF is halted from trading on its primary market; (2) the underlying ETF is delisted in accordance with the terms of Section 4(h) of Chapter IV; or (3) the value of the index or portfolio on which the underlying ETF is based is no longer calculated or available.

The expansion of the types of investments that may be held by Index Multiple ETFs or Index Inverse ETFs under Section 3(i) of Chapter IV of the BOX Rules would not have any effect on the rules pertaining to position and exercise limits [8] or margin.[9]

The Exchange believes that this proposal is necessary to enable the Exchange to list and trade options on the shares of the Ultra Fund, Short Fund, and UltraShort Fund of the ProShares Trust.[10] The Exchange believes the ability to trade options on Index Multiple ETFs and Index Inverse ETFs will provide investors with greater risk management tools.

The Exchange represents that its existing surveillance procedures applicable to trading in options are adequate to properly monitor the trading in Index Multiple ETF options and Index Inverse ETF options.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act,[11] in general, and furthers the objectives of section 6(b)(5) of the Act,[12] in particular, in that it is designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and to remove impediments to and perfect the mechanism of a free and open market and a national market system, because the ability to trade options on Index Multiple ETFs and Index Inverse ETFs will provide investors with greater risk management tools and, in general, will allow for the protection of investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would 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 neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of filing (or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest), the proposed rule change has become effective pursuant to section 19(b)(3)(A) of the Act [13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

The Exchange has requested that the Commission waive the 30-day operative delay and designate the proposed rule change as operative upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. The proposed rule change is substantially similar to those of other options exchanges that have been previously approved by the Commission [15] and does not appear to present any novel regulatory issues. Therefore, the Commission designates the proposal operative upon filing.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. 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 Number SR–BSE–2008–16 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–BSE–2008–16. 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 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, 100 F Street, NE., Washington, DC 20549, on official business days

[8] *See* Sections 7 and 9 of Chapter III of the BOX Rules.

[9] *See* Section 3 of Chapter XIII of the BOX Rules.

[10] *See supra* note 5.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). The Exchange has satisfied the five-day pre-filing requirement of Rule 19b–4(f)(6)(iii).

[15] *See* Securities Exchange Act Release Nos. 56871 (November 30, 2007), 72 FR 68924 (December 6, 2007) (SR–ISE–2007–87); 56715 (Oct. 29, 2007), 72 FR 62287 (November 2, 2007) (SR–CBOE–2007–119); and 56650 (October 12, 2007), 72 FR 59123 (October 18, 2007) (SR–Amex–2007–35).

[16] For purposes only of waiving the operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. 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–BSE–2008–16 and should be submitted on or before May 27, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–9782 Filed 5–2–08; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #11221 and #11222]

Missouri Disaster #MO–00026

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Missouri dated 04/22/2008.

Incident: Severe Storm, Tornadoes, High Winds, Hail and Flooding.

Incident Period: 03/30/2008 through 04/02/2008.

EFFECTIVE DATE: 04/22/2008.

Physical Loan Application Deadline Date: 06/23/2008.

Economic Injury (EIDL) Loan Application Deadline Date: 01/22/2009.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Dallas.

Contiguous Counties:

Missouri: Camden, Greene, Hickory, Laclede, Polk, Webster.

The Interest Rates are:

	Percent
Homeowners with Credit Available Elsewhere	5.500
Homeowners without Credit Available Elsewhere	2.750
Businesses with Credit Available Elsewhere	8.000
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Other (Including Non-Profit Organizations) with Credit Available Elsewhere	5.250
Businesses and Non-Profit Organizations without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 11221 B and for economic injury is 11222 0.

The States which received an EIDL Declaration # is Missouri.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: April 22, 2008.

Steven C. Preston,

Administrator.

[FR Doc. E8–9627 Filed 5–2–08; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF STATE

[Public Notice: 6183]

U.S. National Commission for UNESCO Notice of Meeting

The Annual Meeting of the U.S. National Commission for the United Nations Educational, Scientific, and Cultural Organization (UNESCO) will take place on Monday, May 19, 2008 and Tuesday, May 20, 2008, at the Marriott Georgetown University Conference Hotel, Washington, DC (3800 Reservoir Road, NW.). On Monday, May 19 from 9 a.m. to 12 p.m. and from 2 p.m. to 4:30 p.m. and on Tuesday, May 20 from 9:15 a.m. to 11:45 a.m., the Commission will hold a series of informational plenary sessions and subject-specific committee and thematic breakout sessions, which will be open to the public. Additionally, on Tuesday, May 20, 2008, the Commission will meet from 1 p.m. until 2:30 p.m. to discuss final recommendations, which also will be open to the public. Members of the public who wish to attend any of these meetings should contact the U.S. National Commission for UNESCO no later than Thursday, May 15th for further information about admission, as seating is limited. Those who wish to make oral comments during the public comment section held during the concluding session Tuesday afternoon should request to be scheduled by Thursday, May 15th. Each individual will be limited to five minutes, with the total oral comment period not exceeding forty-five minutes. Written comments should be submitted by Tuesday, May 13th to allow time for distribution to the Commission members prior to the meeting. The National Commission may be contacted via e-mail at *DCUNESCO@state.gov,* or via phone at (202) 663–0026. Its Web site can be accessed at: *http://www.state.gov/p/io/unesco/.*

Dated: April 28, 2008.

Susanna Connaughton,

Executive Director, U.S. National Commission for UNESCO, Department of State.

[FR Doc. E8–9836 Filed 5–2–08; 8:45 am]

BILLING CODE 4710–19–P

TENNESSEE VALLEY AUTHORITY

Environmental Impact Statement—Northeastern Tributary Reservoirs Land Management Plan, Tennessee and Virginia

AGENCY: Tennessee Valley Authority.

ACTION: Notice of Intent.

SUMMARY: The Tennessee Valley Authority (TVA) will prepare an environmental impact statement (EIS) addressing the impacts of various alternatives for managing project lands on seven TVA tributary reservoirs in northeastern Tennessee and southwest Virginia. Public comment is invited concerning both the scope of the EIS and environmental issues that should be addressed as a part of this EIS.

DATES: Comments on the scope of the EIS and the environmental issues that should be addressed in the EIS should be received on or before June 5, 2008.

ADDRESSES: Written comments should be sent to Heather L. McGee, Tennessee Valley Authority, Post Office Box 1010, SB1H–M, Muscle Shoals, Alabama 35662–1010. Comments also may be submitted on the TVA Web site at *http://www.tva.com/environment/reports/ntrres,* by phone at (866) 601–4612, or by fax at (256) 386–2559.

FOR FURTHER INFORMATION CONTACT: D. Chris Cooper, Tennessee Valley Authority, 106 Tri-Cities Business Park Drive, Gray, Tennessee 37813. Telephone: (423) 585–2138. E-mail may be sent to *Northeastern_Tributary_Reservoirs@tva.gov.*

SUPPLEMENTARY INFORMATION:

[17] 17 CFR 200.30–3(a)(12).

Background

This notice is provided in accordance with the Council on Environmental Quality's regulations (40 CFR parts 1500 to 1503), TVA's procedures for implementing the National Environmental Policy Act (NEPA), and Section 106 of the National Historic Preservation Act (NHPA) and its implementing regulations (36 CFR part 800).

The Northeastern Tributary Reservoirs Land Management Plan (Plan) will address lands on the following reservoirs: Beaver Creek and Clear Creek in Washington County, Virginia; South Holston in Washington County, Virginia, and Sullivan County, Tennessee; Boone in Washington County, Tennessee; Fort Patrick Henry in Sullivan County, Tennessee; Watauga in Carter and Johnson Counties, Tennessee; and Wilbur in Carter County, Tennessee.

The length of the reservoir pools range from less than one mile for Beaver Creek to 24 miles for South Holston. TVA originally acquired a total of 10,952 acres of land above normal summer pool for these reservoirs and any associated hydroelectric generating facilities. Over the years, TVA has transferred a portion of this land to other public agencies, primarily the U.S. Forest Service, and has sold a majority of this land to various public and private entities. TVA presently owns a total of 4,946 acres of land on the reservoirs that are the subject of this Plan.

The Plan will allocate lands to various categories of uses in accordance with the following goals: (1) Apply a systematic method of evaluating and identifying the most suitable uses of TVA public lands using resource data, stakeholder input, suitability and capability analyses, and TVA staff input; (2) Identify land use zone allocations to optimize public benefit and balance competing demands for the use of public lands; (3) Identify land use zone allocations to support TVA's broad regional resource development mission, which involves the management of TVA reservoir properties to provide multiple public benefits including recreation, conservation, and economic development; (4) Provide a clear process by which TVA will respond to requests for use of TVA public land; (5) Comply with federal regulations and executive orders; (6) Ensure the protection of significant resources, including threatened and endangered species, cultural resources, wetlands, unique habitats, natural areas, water quality, and the visual character of the reservoir; and (7) Provide a mechanism that allows local, state, and federal infrastructure projects when the use is compatible with the zone allocation. Plans are submitted to the TVA Board of Directors for approval and adopted as guidelines for management of TVA public land consistent with the agency's responsibilities under the TVA Act of 1933.

Potential Alternatives

The EIS will analyze a range of alternative approaches to land allocation to implement the goals of TVA's land planning and to comply with the 2006 TVA Land Policy. Under the No Action Alternative, TVA would continue to rely on the Forecast System adopted by TVA in 1965 for four of the subject reservoirs and the existing Land Plan for Boone completed in 1999. Clear Creek and Beaver Creek would remain unplanned. Planned uses under the Forecast System are Dam Reservation, Public Recreation, Agricultural Research, Industry, Reservoir Operations, and Commercial Recreation. The planned uses for Boone Reservoir lands are TVA Project Operations, Sensitive Resource Management, Natural Resource Conservation, Recreation, and Residential Access.

One or more Action Alternatives are anticipated depending on the results of the public scoping and environmental analysis. Under any Action Alternative, TVA contemplates allocating lands into the following zones: Non-TVA Shoreland/Flowage Easement, TVA Project Operations, Sensitive Resource Management, Natural Resource Conservation, Industrial, Developed Recreation, and Shoreline Access. If there are multiple Action Alternatives, they would likely differ in the amount of land allocated to each of these zones.

Under all alternatives, TVA anticipates that lands currently committed to a specific use would be allocated to that current use. Under all Action Alternatives, changes that support TVA goals, objectives, and the Land Policy can be considered. Committed lands include those subject to existing long-term easements, leases, licenses, and contracts; lands with outstanding land rights; and lands that are necessary for TVA project operations. The committed lands total 4,578 acres or 93 percent of the 4,946 acres being planned. Uncommitted lands total 368 acres. The uncommitted lands are on Boone, Fort Patrick Henry, South Holston, Watauga, and Wilbur Reservoirs.

This EIS will tier from TVA's 1998 Final EIS, Shoreline Management Initiative: An Assessment of Residential Shoreline Development Impacts in the Tennessee Valley. That EIS evaluated alternative policies for managing residential shoreline development on TVA reservoirs. Residential shoreline occurs on Boone, Fort Patrick Henry, South Holston, and Watauga Reservoirs, and the Plan will not affect the policies for its management.

Proposed Issues To Be Addressed

The EIS will contain descriptions of the existing environmental and socioeconomic resources within the area that would be affected by the Plan. TVA's evaluation of potential impacts to these resources will include, but not necessarily be limited to, the potential impacts on water quality, water supply, aquatic and terrestrial ecology, endangered and threatened species, wetlands, prime farmlands, floodplains, recreation, aesthetics and visual resources, land use, historic and archaeological resources, and socioeconomic resources.

Scoping Process

Scoping, which is integral to the process for implementing NEPA, is a procedure that solicits public input to the EIS process to ensure that (1) issues are identified early and properly studied; (2) issues of little significance do not consume substantial time and effort; (3) the draft EIS is thorough and balanced; and (4) delays caused by an inadequate EIS are avoided. TVA's NEPA procedures require that the scoping process commence soon after a decision has been reached to prepare an EIS in order to provide an early and open process for determining the scope and for identifying the significant issues related to a proposed action. The range of alternatives and the issues to be addressed in the EIS will be determined, in part, from written comments and comments submitted orally on the phone or at any public meetings. The preliminary identification of reasonable alternatives and environmental issues in this notice is not meant to be exhaustive or final. Additional information on the planning process is available on the TVA Web site at *http://www.tva.com/environment/reports/ntrres/*.

TVA invites the participation of affected federal, state, and local agencies and Indian tribes, as well as other interested persons. Pursuant to the regulations of the Advisory Council on Historic Preservation implementing Section 106 of the NHPA, TVA also solicits comments on the potential of the proposed Plan to affect historic properties. This notice also provides an opportunity under Executive Orders 11990 and 11988 for early public review

of the potential for TVA's Plan to affect wetlands and floodplains, respectively.

Comments on the scope of this EIS should be submitted no later than the date given under the **DATES** section of this notice. Any comments received, including names and addresses, will become part of the administrative record and will be available for public inspection.

TVA intends to hold a public scoping meeting on May 20, 2008. The open house style meeting will be held from 4–8 p.m. EDT at Sullivan Central High School, Blountville, Tennessee. Upon consideration of the scoping comments, TVA will develop alternatives and identify environmental issues to be addressed in the EIS. These will be described in a report that will be available to the public. Following analysis of the environmental consequences of each alternative, TVA will prepare a draft EIS for public review and comment. Notice of availability of the draft EIS will be published by the Environmental Protection Agency in the **Federal Register**. TVA will solicit comments on the draft EIS in writing and at public meetings to be held in the project area. TVA expects to release the draft EIS in early 2009 and the final EIS in the fall of 2009.

Bridgette K. Ellis,

Senior Vice President, Office of Environment and Research.

[FR Doc. E8–9721 Filed 5–2–08; 8:45 am]

BILLING CODE 8120–08–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (formerly Subpart Q) During the Week Ending January 11, 2008

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (See 14 CFR 301.201 *et seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT–OST–2008–0016.

Date Filed: January 11, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 1, 2008.

Description: Application of ReadyJetGo Airlines, Inc., requesting a certificate of public convenience and necessity authorizing it to engage in interstate charter air transportation of persons, property and mail.

Docket Number: DOT–OST–2008–0018.

Date Filed: January 11, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 1, 2008.

Description: Application of ReadyJetGo Airlines, Inc., requesting a certificate of public convenience and necessity authorizing it to engage in worldwide foreign charter air transportation of persons, property and mail.

Docket Number: DOT–OST–2008–0008.

Date Filed: January 8, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 29, 2008.

Description: Application of Tag Aviation (UK) Ltd. (''TAG UK''), requesting a foreign air carrier permit to enable it to engage in: (i) Foreign charter air transportation of persons and property from any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons and property between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) other charters, and (iv) transportation authorized by any additional route rights made available to European Community carriers in the future. TAG UK further requests an amendment to its existing exemption to enable it to provide the service described above pending issuance of a foreign air carrier permit.

Docket Number: DOT–OST–2008–0009.

Date Filed: January 8, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 29, 2008.

Description: Application of Air Tahiti Nui Airlines, requesting an amended foreign air carrier permit and exemption to conduct: (i) Foreign scheduled and charter air transportation of persons, property and mail from any point or points behind any Member State(s) of the European Union, via any point or points in any Member State(s) and via intermediate points to any point or points in the United States and beyond; (ii) foreign scheduled and charter air transportation of persons, property and mail between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) foreign scheduled and charter cargo air transportation between any point or points in the United States and any other point or points; (iv) other charters; and (v) transportation authorized by any additional route rights made available to European Community carrier in the future. Air Tahiti Nui further requests a corresponding exemption to enable it to provide the services described above pending issuance of an amended foreign air carrier permit.

Docket Number: DOT–OST–2008–0012.

Date Filed: January 8, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 29, 2008.

Description: Application of Global Jet Austria GmbH (''GJA''), requesting an amended foreign air carrier permit to enable it to engage in: (i) Foreign charter air transportation of persons and property from any point or points behind any Member State of the European Union via any point or points in any Member State and via intermediate points to any point or points in the United States and beyond; (ii) foreign charter air transportation of persons and property between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) other charters; and (iv) transportation authorized by any additional route rights made available to European Community carriers in the future. GJA further requests exemption authority to enable it to provide the service described above pending issuance of an amended foreign air carrier permit.

Docket Number: DOT–OST–2008–0006.

Date Filed: January 7, 2008.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: January 28, 2008.

Description: Application of Air Berlin PLC & Co. Luftverkehrs KG., requesting a foreign air carrier permit and an interim exemption to provide: (i) Foreign scheduled and charter air transportation of persons, property and mail from any point or points behind any Member State of the European Union via any point or points in any

Member State and via intermediate points to any point or points in the United States and beyond; (ii) foreign scheduled and charter air services between any point or points in the United States and any point or points in any member of the European Common Aviation Area; (iii) foreign scheduled and charter cargo air transportation between any point or points in the United States and any other point or points; (iv) other charters; and (v) transportation authorized by any additional route rights made available to European community carriers in the future.

Renee V. Wright,

Program Manager, Docket Operations, Federal Register Liaison.

[FR Doc. E8–9829 Filed 5–2–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35087]

Canadian National Railway Company and Grand Trunk Corporation—Control—EJ&E West Company

AGENCY: Surface Transportation Board.

ACTION: Notice of Correction to the Final Scope of Study for the Environmental Impact Statement (EIS).

SUMMARY: The Section of Environmental Analysis (SEA) issued the Final Scope of Study in the above-captioned proceeding on April 25, 2008 and published the Final Scope of Study in the **Federal Register** on April 28, 2008. It has come to our attention that a statement on page 7 of the Final Scope is confusing and open to various interpretations.

Therefore, we will strike this language:

Thus, the EIS will use a five-year threshold from the date of the anticipated year of the issuance of a final decision (2015) for analysis of effects of increased rail traffic, such as vehicle delay. This year was selected because five years is not too long to produce reasonable and reliable freight rail forecasts.

And replace it with:

Thus, the EIS will use a year 2015 threshold for analysis of effects of increased rail traffic, such as vehicle delay. This year was selected because it would provide at least five years of data to be considered in order to produce reasonable and reliable freight rail forecasts.

Please correct your copies accordingly. A corrected version of the Final Scope is available on the Board's Web site at *http://www.stb.dot.gov.*

Decided: April 28, 2008.

By the Board, Victoria Rutson, Chief, Section of Environmental Analysis.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–9834 Filed 5–2–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 35136]

Burlington Shortline Railroad, Inc., d/b/a Burlington Junction Railway—Lease and Operation Exemption—BNSF Railway Company

Burlington Shortline Railroad, Inc., d/b/a Burlington Junction Railway (BJR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease and to operate, pursuant to an agreement with BNSF Railway Company (BNSF), approximately 2.5 miles of BNSF railroad properties consisting of certain trackage, real property, and railroad operating rights located at Montgomery, IL. The rail properties being leased consist of land and tracks owned by BNSF adjacent to and within the Montgomery Industrial Park, located between milepost 39.40 and milepost 40.50 on BNSF's east-west Main 1, Track 3998, and Main 2, track 3999, but excluding BNSF's Main 1, Main 2, and the Old North Main Track 3900. In particular, the lease agreement pertains to track numbers 3901, 3902, 3903, 3904, the segment of track 3930 between tracks 3900 and 3932, and the segment of track 3930 between the northern terminus of track 3931 and track 3942.[1]

BNSF is granting to BJR incidental trackage rights for interchange purposes over track 3900 (the Old North Main) between track numbers 3904 and 3930.

BNSF is also assigning to BJR its contractual rights to operate over certain private industrial track (not owned by BNSF) used to serve shippers in the area, pertaining to track numbers 3905, 3906, 3907, 3908, 3909, 3914, 3915, 3920, 3931, 3932, 3933, 3940, 3941, 3942, 3943, 3944, 9916, 9976, and the portions of track 3930 not owned by BNSF.

BJR, in turn, is granting BNSF interchange rights for the use of BJR's leased yard tracks at Montgomery, IL, for the sole purpose of interchanging traffic between the parties on track numbers 3901 and 3902.

The earliest this exemption can be consummated is May 21, 2008, the effective date of the exemption (30 days after the exemption is filed).

BJR certifies that its projected annual revenues as a result of this transaction will not exceed those that qualify it as a Class III rail carrier and will not exceed $5 million.

Pursuant to the Consolidated Appropriations Act, 2008, Public Law 110–161, section 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: Collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term ''solid waste'' is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

If the verified notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed by no later than May 14, 2008 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35136, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy must be served on John D. Heffner, John D. Heffner, PLLC, 1750 K Street, NW., Suite 350, Washington, DC 20006.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: April 29, 2008.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–9698 Filed 5–2–08; 8:45 am]

BILLING CODE 4915–01–P

[1] BJR originally filed a notice of exemption to acquire and operate the subject rail properties in *Burlington Shortline Railroad, Inc., d/b/a Burlington Junction Railway Company—Acquisition and Operation Exemption—BNSF Railway Company,* STB Finance Docket No. 35121 (STB served Apr. 3, 2008, and published at 73 FR 18322). Ozinga Bros., Inc., filed a petition to reject or stay the exemption, and the Board issued a housekeeping stay on April 16, 2008, in that docket to allow time to consider any replies and to make an informed decision. BJR requested permission to withdraw that notice on April 21, 2008, and concurrently filed the instant notice clarifying that the acquisition transaction was by lease rather than purchase and explaining in more detail the involved rail property and the proposed transaction. By decision served on April 29, 2008, the Board granted BJR's withdrawal request, discontinued the proceeding in STB Finance Docket No. 35121, and vacated the stay in that proceeding as moot.

DEPARTMENT OF THE TREASURY

Open Meeting of the Financial Literacy and Education Commission

AGENCY: Departmental Offices, Treasury.

ACTION: Notice of open meeting.

SUMMARY: This notice announces the fourteenth meeting of the Financial Literacy and Education Commission, established by the Financial Literacy and Education Improvement Act (Title V of the Fair and Accurate Credit Transactions Act of 2003).

DATES: The fourteenth meeting of the Financial Literacy and Education Commission will be held on Thursday, May 15, 2008, beginning at 10 a.m.

ADDRESSES: The Financial Literacy and Education Commission meeting will be held in the Cash Room at the Department of the Treasury, located at 1500 Pennsylvania Avenue, NW., Washington, DC 20220. To be admitted to the Treasury building, attendees must RSVP with their name as shown on their official ID, organization represented (if any), phone number, date of birth, Social Security number and country of citizenship. RSVP to the Department of the Treasury by e-mail at: *FLECrsvp@do.treas.gov* not later than 9 a.m. (EDT) on Monday, May 12, 2008. For admittance to the Treasury building on the day of the meeting, attendees must present a government ID, such as a driver's license or passport.

FOR FURTHER INFORMATION CONTACT: For additional information, contact William F. Sullivan by e-mail at *william.sullivan@do.treas.gov* or by telephone at (202) 622–4826 (not a toll-free number). Additional information regarding the Financial Literacy and Education Commission and the Department of the Treasury's Office of Financial Education may be obtained through the Office of Financial Education's Web site at *http://www.treas.gov/financialeducation*.

SUPPLEMENTARY INFORMATION: The Financial Literacy and Education Improvement Act, which is Title V of the Fair and Accurate Credit Transactions Act of 2003 (the ''FACT Act'') (Pub. L. 108–159), established the Financial Literacy and Education Commission (the ''Commission'') to improve financial literacy and education of persons in the United States. The Commission is composed of the Secretary of the Treasury and the heads of the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the Federal Reserve, the Federal Deposit Insurance Corporation, the National Credit Union Administration, the Securities and Exchange Commission, the Departments of Education, Agriculture, Defense, Health and Human Services, Housing and Urban Development, Labor, and Veterans Affairs, the Federal Trade Commission, the General Services Administration, the Small Business Administration, the Social Security Administration, the Commodity Futures Trading Commission, and the Office of Personnel Management. The Commission is required to hold meetings that are open to the public every four months.

The fourteenth meeting of the Commission, which will be open to the public, will be held in the Cash Room at the Department of the Treasury, located at 1500 Pennsylvania Avenue, NW., Washington, DC 20220. The room will accommodate 80 members of the public. Seating is available on a first-come basis. Participation in the discussion at the meeting will be limited to Commission members, their staffs, and special guest presenters.

Dated: April 28, 2008.

Taiya Smith,

Executive Secretary.

[FR Doc. E8–9769 Filed 5–2–08; 8:45 am]

BILLING CODE 4810–25–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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National Organic Program, Sunset Review; comments due by 5-13-08; published 3-14-08 [FR E8-05103]

Sweet Onions Grown in the Walla Walla Valley of Southeast Washington and Northeast Oregon; Increased Assessment Rate; comments due by 5-13-08; published 3-14-08 [FR E8-05102]

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Child nutrition programs:

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AGRICULTURE DEPARTMENT

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Listing Endangered and Threatened Species:

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S. 2954/P.L. 110–208

To amend Public Law 110-196 to provide for a temporary extension of programs authorized by the Farm Security and Rural Investment Act of 2008 beyond May 2, 2008. (May 2, 2008; 122 Stat. 720)

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24 Parts:			
0–199	(869–062–00074–0)	60.00	Apr. 1, 2007
200–499	(869–062–00075–8)	50.00	Apr. 1, 2007
500–699	(869–062–00076–6)	30.00	Apr. 1, 2007
700–1699	(869–062–00077–4)	61.00	Apr. 1, 2007
1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
25	(869–062–00079–1)	64.00	Apr. 1, 2007
26 Parts:			
§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 1.61–1.169	(869–062–00081–2)	63.00	Apr. 1, 2007
§§ 1.170–1.300	(869–062–00082–1)	60.00	Apr. 1, 2007
§§ 1.301–1.400	(869–062–00083–9)	47.00	Apr. 1, 2007
§§ 1.401–1.440	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–062–00085–5)	58.00	Apr. 1, 2007
§§ 1.501–1.640	(869–062–00086–3)	49.00	Apr. 1, 2007
§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
§§ 1.1401–1.1550	(869–062–00091–0)	58.00	Apr. 1, 2007
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
40–49	(869–062–00095–2)	28.00	[6] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–062–00097–9)	61.00	Apr. 1, 2007
500–599	(869–062–00098–7)	12.00	[5] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–39	(869–062–00100–2)	64.00	Apr. 1, 2007
40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–062–00103–7)	61.00	July 1, 2007
43–End	(869–062–00104–5)	60.00	July 1, 2007
29 Parts:			
0–99	(869–062–00105–3)	50.00	[7] July 1, 2007
100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[7] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
1910 (§§ 1910.1000 to end)	(869–062–00110–0)	46.00	July 1, 2007
1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–062–00113–4)	62.00	July 1, 2007
30 Parts:			
1–199	(869–062–00114–2)	57.00	July 1, 2007
200–699	(869–062–00115–1)	50.00	July 1, 2007
700–End	(869–062–00116–9)	58.00	July 1, 2007
31 Parts:			
0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–062–00118–5)	46.00	July 1, 2007
500–End	(869–062–00119–3)	62.00	July 1, 2007
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–062–00121–5)	63.00	July 1, 2007
400–629	(869–062–00122–3)	61.00	July 1, 2007
630–699	(869–062–00123–1)	37.00	July 1, 2007
700–799	(869–062–00124–0)	46.00	July 1, 2007
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–062–00126–6)	57.00	July 1, 2007
125–199	(869–062–00127–4)	61.00	July 1, 2007
200–End	(869–062–00128–2)	57.00	July 1, 2007
34 Parts:			
1–299	(869–062–00129–1)	50.00	July 1, 2007
300–399	(869–062–00130–4)	40.00	July 1, 2007
400–End & 35	(869–062–00131–2)	61.00	July 1, 2007
36 Parts:			
1–199	(869–062–00132–1)	37.00	July 1, 2007
200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–062–00134–7)	61.00	July 1, 2007
37	(869–062–00135–5)	58.00	July 1, 2007
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–062–00137–1)	62.00	July 1, 2007
39	(869–062–00138–0)	42.00	July 1, 2007
40 Parts:			
1–49	(869–062–00139–8)	60.00	July 1, 2007
50–51	(869–062–00140–1)	45.00	July 1, 2007
52 (52.01–52.1018)	(869–062–00141–0)	60.00	July 1, 2007
52 (52.1019–End)	(869–062–00142–8)	64.00	July 1, 2007
53–59	(869–062–00143–6)	31.00	July 1, 2007
60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–062–00145–2)	57.00	July 1, 2007
61–62	(869–062–00146–1)	45.00	July 1, 2007
63 (63.1–63.599)	(869–062–00147–9)	58.00	July 1, 2007
63 (63.600–63.1199)	(869–062–00148–7)	50.00	July 1, 2007
63 (63.1200–63.1439)	(869–062–00149–5)	50.00	July 1, 2007
63 (63.1440–63.6175)	(869–062–00150–9)	32.00	July 1, 2007
63 (63.6580–63.8830)	(869–062–00151–7)	32.00	July 1, 2007
63 (63.8980–End)	(869–062–00152–5)	35.00	July 1, 2007
64–71	(869–062–00153–3)	29.00	July 1, 2007
72–80	(869–062–00154–1)	62.00	July 1, 2007
81–84	(869–062–00155–0)	50.00	July 1, 2007
85–86 (85–86.599–99)	(869–062–00156–8)	61.00	July 1, 2007
86 (86.600–1–End)	(869–062–00157–6)	61.00	July 1, 2007
87–99	(869–062–00158–4)	60.00	July 1, 2007
100–135	(869–062–00159–2)	45.00	July 1, 2007
136–149	(869–062–00160–6)	61.00	July 1, 2007
150–189	(869–062–00161–4)	50.00	July 1, 2007
190–259	(869–062–00162–2)	39.00	[7] July 1, 2007
260–265	(869–062–00163–1)	50.00	July 1, 2007
266–299	(869–062–00164–9)	50.00	July 1, 2007
300–399	(869–062–00165–7)	42.00	July 1, 2007
400–424	(869–062–00166–5)	56.00	[7] July 1, 2007
425–699	(869–062–00167–3)	61.00	July 1, 2007
700–789	(869–062–00168–1)	61.00	July 1, 2007
790–End	(869–062–00169–0)	61.00	July 1, 2007
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	(869–062–00170–3)	24.00	July 1, 2007
101	(869–062–00171–1)	21.00	July 1, 2007
102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–062–00173–8)	24.00	July 1, 2007
42 Parts:			
1–399	(869–062–00174–6)	61.00	Oct. 1, 2007
400–413	(869–062–00175–4)	32.00	Oct. 1, 2007
414–429	(869–062–00176–2)	32.00	Oct. 1, 2007
430–End	(869–062–00177–1)	64.00	Oct. 1, 2007
43 Parts:			
1–999	(869–062–00178–9)	56.00	Oct. 1, 2007
1000–end	(869–062–00179–7)	62.00	Oct. 1, 2007
44	(869–062–00180–1)	50.00	Oct. 1, 2007
45 Parts:			
1–199	(869–062–00181–9)	60.00	Oct. 1, 2007
200–499	(869–060–00182–7)	34.00	[9] Oct. 1, 2007
500–1199	(869–062–00183–5)	56.00	Oct. 1, 2007
1200–End	(869–062–00184–3)	61.00	Oct. 1, 2007
46 Parts:			
1–40	(869–062–00185–1)	46.00	Oct. 1, 2007
41–69	(869–062–00186–0)	39.00	Oct. 1, 2007
70–89	(869–062–00187–8)	14.00	Oct. 1, 2007
90–139	(869–062–00188–6)	44.00	Oct. 1, 2007
140–155	(869–062–00189–4)	25.00	Oct. 1, 2007
156–165	(869–062–00190–8)	34.00	Oct. 1, 2007
166–199	(869–062–00191–6)	46.00	Oct. 1, 2007
200–499	(869–062–00192–4)	40.00	Oct. 1, 2007
500–End	(869–062–00193–2)	25.00	Oct. 1, 2007
47 Parts:			
0–19	(869–062–00194–1)	61.00	Oct. 1, 2007
20–39	(869–062–00195–9)	46.00	Oct. 1, 2007
40–69	(869–062–00196–7)	40.00	Oct. 1, 2007
70–79	(869–062–00197–5)	61.00	Oct. 1, 2007
80–End	(869–062–00198–3)	61.00	Oct. 1, 2007
48 Chapters:			
1 (Parts 1–51)	(869–062–00199–1)	63.00	Oct. 1, 2007
1 (Parts 52–99)	(869–062–00200–9)	49.00	Oct. 1, 2007
2 (Parts 201–299)	(869–062–00201–7)	50.00	Oct. 1, 2007
3–6	(869–062–00202–5)	34.00	Oct. 1, 2007

Title	Stock Number	Price	Revision Date
7–14	(869–062–00203–3)	56.00	Oct. 1, 2007
15–28	(869–062–00204–1)	47.00	Oct. 1, 2007
29–End	(869–062–00205–0)	47.00	Oct. 1, 2007
49 Parts:			
1–99	(869–062–00206–8)	60.00	Oct. 1, 2007
100–185	(869–062–00207–6)	63.00	Oct. 1, 2007
186–199	(869–062–00208–4)	23.00	Oct. 1, 2007
200–299	(869–062–00208–1)	32.00	Oct. 1, 2007
300–399	(869–062–00210–6)	32.00	Oct. 1, 2007
400–599	(869–062–00210–3)	64.00	Oct. 1, 2007
600–999	(869–062–00212–2)	19.00	Oct. 1, 2007
1000–1199	(869–062–00213–1)	28.00	Oct. 1, 2007
1200–End	(869–062–00214–9)	34.00	Oct. 1, 2007
50 Parts:			
1–16	(869–062–00215–7)	11.00	Oct. 1, 2007
17.1–17.95(b)	(869–062–00216–5)	32.00	Oct. 1, 2007
17.95(c)–end	(869–062–00217–3)	32.00	Oct. 1, 2007
17.96–17.99(h)	(869–062–00218–1)	61.00	Oct. 1, 2007
17.99(i)–end and 17.100–end	(869–062–00219–0)	47.00	[8] Oct. 1, 2007
18–199	(869–062–00226–3)	50.00	Oct. 1, 2007
200–599	(869–062–00221–1)	45.00	Oct. 1, 2007
600–659	(869–062–00222–0)	31.00	Oct. 1, 2007
660–End	(869–062–00223–8)	31.00	Oct. 1, 2007
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,499.00	2008
Microfiche CFR Edition:			
Subscription (mailed as issued)		406.00	2008
Individual copies		4.00	2008
Complete set (one-time mailing)		332.00	2007
Complete set (one-time mailing)		332.00	2006

[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, 2007. 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, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[7] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2007. The CFR volume issued as of October 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period October 1, 2006, through October 1, 2007. The CFR volume issued as of October 1, 2006 should be retained.