3–6–08 Thursday
Vol. 73 No. 45 Mar. 6, 2008

Pages 12007–12258

Federal Register

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

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

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2641

RIN 3209–AA14

Post-Employment Conflict of Interest Restrictions; Revision of Departmental Component Designations

AGENCY: Office of Government Ethics (OGE).

ACTION: Final rule.

SUMMARY: The Office of Government Ethics is issuing this rule to revoke the designation of a departmental component and to designate two additional departmental components for purposes of the one-year post-employment conflict of interest restriction at 18 U.S.C. 207(c), to change the name of an existing departmental component, and to correct a clerical error in the name of another existing departmental component.

DATES: The amendments to appendix B to part 2641 (as set forth in amendatory paragraph 2) are effective March 6, 2008. The additional removal of a designated component from the listing for the Department of Commerce in appendix B to part 2641 (as set forth in amendatory paragraph 3) is effective June 4, 2008.

FOR FURTHER INFORMATION CONTACT: Amy E. Braud, Attorney-Advisor, or William E. Gressman, Senior Associate General Counsel, Office of General Counsel and Legal Policy, Office of Government Ethics, Telephone: 202–482–9300; TDD: 202–482–9293; FAX: 202–482–9237.

SUPPLEMENTARY INFORMATION:

A. Substantive Discussion

Revocation and Addition of Departmental Components

The Director of OGE (Director) is authorized by 18 U.S.C. 207(h) to designate distinct and separate departmental or agency components in the executive branch for purposes of 18 U.S.C. 207(c). The representational bar of 18 U.S.C. 207(c) usually extends to the whole of any department or agency in which a former senior employee served in any capacity during the year prior to termination from a senior employee position. However, 18 U.S.C. 207(h) provides that whenever the Director of OGE determines that an agency or bureau within a department or agency in the executive branch exercises functions which are distinct and separate from the remaining functions of the department or agency and there exists no potential for use of undue influence or unfair advantage based on past Government service, the Director shall by rule designate such agency or bureau as a separate component of that department or agency. As a result, a former senior employee who served in a ''parent'' department or agency is not barred by 18 U.S.C. 207(c) from making communications to or appearances before any employees of any designated component of that parent, but is barred as to employees of that parent or of other components that have not been separately designated. Moreover, a former senior employee who served in a designated component of a parent department or agency is barred from communicating to or making an appearance before any employee of that component, but is not barred as to any employee of the parent or of any other component.

Under 18 U.S.C 207(h)(2), component designations do not apply to persons employed at a rate of pay specified in or fixed according to subchapter II of 5 U.S.C. chapter 53 (the Executive Schedule). Component designations are listed in appendix B to 5 CFR part 2641.

The Director of OGE regularly reviews the component designations and determinations and, in consultation with the department or agency concerned, makes such additions and deletions as are necessary. Specifically, the Director ''shall by rule make or revoke a component designation after considering the recommendation of the designated agency ethics official.'' 5 CFR 2641.201(e)(3)(iii). Before designating an agency component as distinct and separate for purposes of 18 U.S.C. 207(c), the Director must find that there exists no potential for use by former senior employees of undue influence or unfair advantage based on past Government service, and that the component is an agency or bureau within a department or agency that exercises functions which are distinct and separate from the functions of the parent department or agency and from the functions of other components of that parent. 5 CFR 2641.201(e)(6).

Department of Commerce

Pursuant to the procedures prescribed in 5 CFR 2641.201(e), one department has forwarded a written request to OGE to amend its listing in appendix B. After carefully reviewing the requested changes in light of the criteria in 18 U.S.C. 207(h) as implemented in 5 CFR 2641.201(e)(6), the Director of OGE has determined to grant this request and amend appendix B to 5 CFR part 2641 as explained below.

The Department of Commerce has requested that OGE remove the Technology Administration from its list of component designations and in its place designate the National Institute of Standards and Technology (NIST) and the National Technical Information Service (NTIS) as distinct and separate components of the Department of Commerce for purposes of 18 USC 207(c). These two entities formerly were the two institutes within the Technology Administration, which is currently a designated component of the Department of Commerce. The Technology Administration was abolished by the America COMPETES Act, Public Law 110–69 (August 9, 2007). NIST and NTIS are the entities that remain after the dissolution of the Technology Administration.

NIST was the major component of the Technology Administration during the latter's existence. NIST's mission is to promote U.S. innovation and industrial competitiveness by advancing measurement science, standards and technology in ways that enhance economic security and improve quality of life. It functions as the lead national laboratory for providing the measurements, calibrations, and quality assurance techniques which underpin U.S. commerce, technological progress, improved product reliability and manufacturing processes, and public safety. Because the Technology Administration has been abolished, the

Director of NIST now reports directly to the Secretary of Commerce.

NTIS is a small entity that performs a Government function different from that of NIST. NTIS collects information on scientific, technical, engineering, and business-related research conducted or sponsored by the U.S. Government and creates a permanent archive that the public can access. Because the Technology Administration has been abolished, the Director of NTIS now reports directly to the Secretary of Commerce.

According to the Department of Commerce, the functions of NIST and NTIS are distinct and separate from each other and distinct and separate from every other agency within the Department. This distinction was previously recognized when OGE designated their parent agency, the Technology Administration, as a component for purposes of 18 USC 207(c). The act that abolished the Technology Administration left the NIST and the NTIS in its place.

Accordingly, the Director is granting the request of the Department of Commerce and therefore is amending the Department of Commerce listing in appendix B to part 2641 to remove the Technology Administration from the component designation list and to designate NIST and NTIS as new components as discussed.

The Department of Commerce has also advised that the name of one component currently listed in appendix B of part 2641 has been changed. According to the Department of Commerce, the ''Patent and Trademark Office'' has been the ''United States Patent and Trademark Office'' since November 29, 1999. Accordingly, the Director is amending the Department of Commerce listing in appendix B to reflect the current name of this component.

The Department of Commerce has further noted that the name of one of its existing components is incorrect. One of the existing components is listed as the ''Minority Business Development Administration.'' According to the Department of Commerce, this component has never carried this name. It has always been the ''Minority Business Development Agency.'' The Director is therefore amending the listing in appendix B to reflect the correct name of the component.

As indicated in 5 CFR 2641.201(e)(4), a designation ''shall be effective as of the effective date of the rule that creates the designation, but shall not be effective as to employees who terminated senior service prior to that date.'' Initial designations were effective as of January 1, 1991. The effective date of subsequent designations is indicated by means of parenthetical entries in appendix B. The new component designations made by this rulemaking document, as well as the component name change and the name correction being reflected herein (which do not affect their underlying component designation dates), are effective March 6, 2008.

As also indicated in 2641.201(e)(4), revocation is effective 90 days after the effective date of the rule that revokes the designation. Accordingly, the component designation revocation made in this rulemaking will take effect June 4, 2008. Revocations are not effective as to any individual terminating senior service prior to the expiration of the 90-day period.

B. Matters of Regulatory Procedure

Administrative Procedure Act

Pursuant to 5 U.S.C. 553, as the Director of the Office of Government Ethics, I find that good cause exists for waiving the general requirements for notice of proposed rulemaking, opportunity for public comment, and a 30-day delayed effective date. It is important and in the public interest that the designations herein by OGE of the specified separate departmental components, which reflect the current organization of the concerned department, as well as the component name change, the component name correction and the component revocation, be published in the **Federal Register** and take effect as promptly as possible.

Regulatory Flexibility Act

As Director of the Office of Government Ethics, I certify under the Regulatory Flexibility Act (5 U.S.C. chapter 6) that this rule will not have a significant economic impact on a substantial number of small entities because it affects only Federal departments and agencies and current and former Federal employees.

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does not apply to this rule because it does not contain information collection requirements that require the approval of the Office of Management and Budget.

Unfunded Mandates Reform Act

For purposes of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. chapter 25, subchapter II), the final rule will not significantly or uniquely affect small governments and will not result in increased expenditures by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more (as adjusted for inflation) in any one year.

Congressional Review Act

The Office of Government Ethics has determined that this rulemaking involves a non-major rule under the Congressional Review Act (5 U.S.C. chapter 8) and will submit a report thereon to the U.S. Senate, House of Representatives and Government Accountability Office in accordance with that law at the same time this rulemaking document is sent to the Office of the **Federal Register** for publication in the **Federal Register**.

Executive Order 12866

In promulgating this final rule, the Office of Government Ethics has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This rule has not been reviewed by the Office of Management and Budget under that Executive order since it deals with agency organization, management, and personnel matters and is not ''significant'' under the order.

Executive Order 12988

As Director of the Office of Government Ethics, I have reviewed this rule in light of section 3 of Executive Order 12988, Civil Justice Reform, and certify that it meets the applicable standards provided therein.

List of Subjects in 5 CFR Part 2641

Conflict of interests, Government employees.

Approved: February 24, 2008.

Robert I. Cusick,

Director, Office of Government Ethics.

■ Accordingly, for the reasons set forth in the preamble, the Office of Government Ethics is amending 5 CFR part 2641 as follows:

PART 2641—POST-EMPLOYMENT CONFLICT OF INTEREST RESTRICTIONS

■ 1. The authority citation for part 2641 continues to read as follows:

Authority: 5 U.S.C. App. (Ethics in Government Act of 1978); 18 U.S.C. 207; E.O. 12674, 54 FR 15159, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 55 FR 42547, 3 CFR, 1990 Comp., p. 306.

■ 2. Effective March 6, 2008, appendix B to part 2641 is amended by revising the listing for the Department of Commerce to read as follows:

Appendix B to Part 2641—Agency Components for Purposes of 18 U.S.C. 207(c)

* * * * *

Parent: Department of Commerce

Components:
- Bureau of the Census
- Bureau of Industry and Security (formerly Bureau of Export Administration) (effective January 28, 1992)
- Economic Development Administration
- International Trade Administration
- Minority Business Development Agency (formerly listed as Minority Business Development Administration)
- National Institute of Standards and Technology (effective March 6, 2008)
- National Oceanic and Atmospheric Administration
- National Technical Information Service (effective March 6, 2008)
- National Telecommunications and Information Administration
- Technology Administration (effective January 28, 1992; expiring June 4, 2008)
- United States Patent and Trademark Office (formerly Patent and Trademark Office)

* * * * *

■ 3. Effective June 4, 2008, appendix B to part 2641 is further amended by removing the Technology Administration from the listing for the Department of Commerce.

[FR Doc. E8–4282 Filed 3–5–08; 8:45 am]

BILLING CODE 6345–02–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 16

[Docket ID OCC–2008–0003]

RIN 1557–AD04

Securities Offering Disclosure Rules

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is amending its securities offering disclosure rules to eliminate the general requirement that a national bank in organization include audited financial statements as part of a public offering of its securities. The OCC has determined that, due to the very limited nature of the activities of a bank in the organizational phase, this requirement typically adds little information that is of benefit to potential investors or of significance in our review of an application for a national bank charter. However, the final rule enables the OCC to request audited financial statements in circumstances where doing so would be in the best interest of investors or would further the safe and sound operation of the national bank.

DATES: *Effective Date:* April 7, 2008.

FOR FURTHER INFORMATION CONTACT: Lee Walzer, Counsel, Legislative and Regulatory Activities Division, (202) 874–4487; Stuart Feldstein, Assistant Director, Legislative and Regulatory Activities Division, (202) 874–5090; Ted Dowd, Senior Attorney, Securities and Corporate Practices, Division, (202) 874–5210; Beverly Evans, Director, Licensing Activities, (202) 874–5060.

SUPPLEMENTARY INFORMATION:

I. Background

On October 18, 2007, the OCC published a notice of proposed rulemaking (NPRM) to streamline the process for applying for a new national bank charter by eliminating, in most cases, the requirement that a national bank in organization submit audited financial statements as part of a public offering of its securities.[1] The NPRM further provided that the OCC would be able to require such statements if their inclusion would be in the best interests of investors or would further the safe and sound operation of a national bank.

By reference to rules issued by, and forms required by, the Securities and Exchange Commission (SEC), the OCC's securities offering disclosure regulations currently require national bank charter applicants to provide audited financial statements in connection with registration statements filed with the OCC for a public offering of securities.[2] However, as we discussed in the preamble to the NPRM, the requirement for a national bank in organization to submit audited financial statements is not warranted in most cases.[3] Obtaining audited financial statements can be time-consuming and costly for the organizing group without resulting in corresponding benefits. The statements usually reflect little more than the bank account of the organizing group and its organizational expenses incurred and there is no clear need for this information to be subject to an independent audit. The OCC also typically does not rely on audited financial statements in deciding applications for *de novo* national bank charters. The OCC's process for chartering *de novo* national banks is comprehensive and includes extensive, ongoing review of the proposed bank's management, financial resources, and business plan. This process provides the OCC the opportunity to carefully consider, on the basis of detailed information, whether the organizing group has the expertise and resources to operate a viable national bank. Audited financial statements typically do not add materially to the information already available to the OCC through the application process.

The OCC received no comments on the NPRM and, accordingly, we are adopting the regulatory changes as proposed.

II. Description of the Final Rule

The final rule is substantively identical to the proposal, with minor wording changes to improve technical descriptions. Specifically, part 16 is amended to provide a waiver from the requirement to use audited financial statements as part of a registration statement for the offering of securities for a national bank in organization.

Under the final rule, the OCC will retain the authority to require audited financial statements if the OCC determines that factors particular to the proposal indicate that such statements would be in the interest of investors or would further the safe and sound operation of a national bank. For example, the OCC may require audited financial statements where review of the registration statement, or any other aspect of the application to charter a national bank, uncovers incomplete or inaccurate information about the proposed bank's finances or capital, or other material inaccuracies or misstatements.

This final rule is part of the OCC's ongoing effort to reduce unnecessary regulatory burden on national banks, including applicants for national bank charters. These efforts include an internal review of OCC regulations, which soon will be issued in final form.[4] In addition, the OCC together with the other Federal banking, thrift, and credit union regulators recently concluded an interagency review of regulations pursuant to the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA), the results of which are described in detail in a report submitted to the Congress late last year.[5]

[1] 72 FR 59,039 (October 18, 2007).

[2] 12 CFR 16.15 (OCC rule referencing SEC rules governing form and content of securities registration statements). *See* Regulation S–X, 17 CFR 210.3–01(a) (SEC requirement to file consolidated financial statements); Regulation S–B, 17 CFR 228.310(a) (SEC regulations governing financial statements by small business issuers); Rule 1–02(h), Regulation S–X, 17 CFR 210.1–02(h) (SEC definition of developmental stage company).

[3] 72 FR at 59,040.

[4] *See* proposed rule at 74 FR 36,550 (July 3, 2007).

[5] Section 2222 of the EGRPRA directed the OCC, together with the Board of Governors of the Federal

Continued

III. Regulatory Analysis

Regulatory Flexibility Act

Pursuant to Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b) (RFA), the regulatory flexibility analysis otherwise required under Section 604 of the RFA is not required if the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities and publishes its certification and a short, explanatory statement in the **Federal Register** along with its rule.

This change would reduce the costs and expenses associated with the formation of a national bank and will not have a significant economic impact. Therefore, pursuant to Section 605(b) of the RFA, the OCC hereby certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not needed.

Executive Order 12866

The OCC has determined that this rule is not a significant regulatory action under Executive Order 12866. We have concluded that the changes made by this rule will not have an annual effect on the economy of $100 million or more. The OCC further concludes that this proposal does not meet any of the other standards for a significant regulatory action set forth in Executive Order 12866

Paperwork Reduction Act

In accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), the Agencies may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

The information collection requirements contained in this final rule have been submitted to, and pre-approved by, OMB for review and approval under OMB control number 1557–0120 (Securities Offering Disclosure Rules). Following publication of this final rule, OMB's pre-approval will become final.

Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995, Public Law 104–4 (2 U.S.C. 1532) (Unfunded Mandates Act), requires that an agency prepare a budgetary impact statement before promulgating any rule likely to result in a Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year. If a budgetary impact statement is required, Section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC has determined that this final rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more in any one year. Accordingly, this final rule is not subject to Section 202 of the Unfunded Mandates Act.

List of Subjects in 12 CFR Part 16

National banks, Reporting and recordkeeping requirements, Securities.

Authority and Issuance

■ For the reasons set forth in the preamble, chapter I of title 12 of the Code of Federal Regulations is amended as follows:

PART 16—SECURITIES OFFERING DISCLOSURE RULES

■ 1. The authority citation for part 16 continues to read as follows:

Authority: 12 U.S.C. 1 et seq. and 93a.

■ 2. Add § 16.15(e) to read as follows:

§ 16.15 Form and content.

* * * * *

(e) Notwithstanding paragraph (a) of this section, a national bank in organization pursuant to § 5.20 of this chapter shall not be required to include audited financial statements as part of its registration statement for the offer and sale of its securities, unless the OCC determines that factors particular to the proposal indicate that inclusion of such statements would be in the interest of investors or would further the safe and sound operation of a national bank.

Dated: February 28, 2008.

John C. Dugan,

Comptroller of the Currency.

[FR Doc. E8–4382 Filed 3–5–08; 8:45 am]

BILLING CODE 4810–33–P

Reserve System, the Federal Deposit Insurance Corporation, the Office of Thrift Supervision, and the National Credit Union Administration to review their rules, to identify those that were outdated, unnecessary, or unduly burdensome, and to eliminate them if appropriate. *See* 12 U.S.C. 3311. For the text of the agencies' Report to Congress, see 72 FR 62,036 (November 1, 2007).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2007–0091; Airspace Docket No. 07–AWP–5]

Modification of Class E Airspace; Hollister, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action will amend Class E airspace at Hollister, CA. Additional controlled airspace is necessary to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) at Hollister Municipal Airport, Hollister, CA. This will improve the safety of Instrument Flight Rules (IFR) aircraft executing the new RNAV GPS SIAP at Hollister Municipal Airport, Hollister, CA.

DATES: *Effective Date:* 0901 UTC, June 5, 2008. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, System Support Group, Western Service Area, 1601 Lind Avenue, SW., Renton, WA, 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On November 29, 2007, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish additional controlled airspace at Hollister, CA, (72 FR 67587). This action would improve the safety of IFR aircraft executing this new RNAV GPS SIAP approach procedure at Hollister Municipal Airport, Hollister, CA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.9R signed August 15, 2007, and effective September 15, 2007, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace at Hollister, CA. Additional controlled airspace is necessary to accommodate IFR aircraft executing a new RNAV (GPS) approach procedure at Hollister Municipal Airport, Hollister, CA.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAAs authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes additional controlled airspace at Hollister Municipal Airport, Hollister, CA.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

■ In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9R, Airspace Designations and Reporting Points, signed August 15, 2007, and effective September 15, 2007 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Hollister, CA [Amended]

Hollister Municipal Airport, CA
(Lat. 36°53′36″ N., long. 121°24′37″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hollister Municipal Airport and within 2 miles each side of the 142° bearing from the airport extending from the 6.5-mile radius to 13.5 miles southeast of the airport.

* * * * *

Issued in Seattle, Washington, on February 22, 2008.

Clark Desing,

Manager, System Support Group, Western Service Center.

[FR Doc. E8–4276 Filed 3–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF DEFENSE

Office of the Secretary

RIN 0790–AH95

32 CFR Part 240

Financial Assistance to Local Educational Agencies (LEAs)

AGENCY: Department of Defense.

ACTION: Final rule; correction.

SUMMARY: The Department of Defense is correcting a final rule that appeared on February 25, 2008 (72 FR 9949). The document removed 32 CFR Part 240, ''Financial Assistance to Local Educational Agencies (LEAs).''

DATES: Effective date February 25, 2008.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, 703–696–4970.

SUPPLEMENTARY INFORMATION: In FR Doc. E8–3479 appearing on page 9949 in the **Federal Register** of Monday, February 25, 2008, the following correction is made:

On page 9949, 3rd column, docket number ''DoD–2006–OS–0023'' is removed.

Dated: February 29, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. E8–4360 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2005–VA–0011; FRL–8537–6]

Approval and Promulgation of Air Quality Implementation Plans; Commonwealth of Virginia; Control of Particulate Matter From Pulp and Paper Mills; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects errors in the final rule chart listing Virginia regulations governing kraft pulp and paper mills which EPA has incorporated by reference into the Virginia State Implementation Plan (SIP).

DATES: *Effective Date:* March 6, 2008.

FOR FURTHER INFORMATION CONTACT: Harold A. Frankford (215) 814–2108 or by e-mail at *frankford.harold@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'' or ''our'' are used we mean EPA. On October 19, 2007 (72 FR 59207), we published a final rulemaking action announcing our approval of State Implementation Plan (SIP) revisions to Virginia regulations governing kraft pulp and paper mills (9 VAC 5, Chapter 40, Part II, Article 13). In that document, in the rule chart for 40 CFR 52.2420(c), for entry 5–40–1670 published on Page 59210, we inadvertently omitted two ''added'' definitions, listed two other definitions that were not part of the SIP revision, and removed language providing the historical status of the definitions not affected by this EPA approval action. In addition, we provided an incorrect amendatory instruction on Page 15209 regarding the revised compliance provisions (5–40–1750, formerly entry 5–40–1750A). This action (1) revises the list of definitions described in the ''Explanation [former SIP citation]'' column for entry 5–40–1670, and (2) corrects the erroneous amendatory instruction in part 52 for entry 5–40–1750.

In the Rule document E7–20568 published in the **Federal Register** on October 19, 2007 (72 FR 59207),

Amendatory Instruction Number 2 on Page 59209, Third Column is revised to read: ''In § 52.2420, the table in paragraph (c) is amended by adding an entry for 5–40–1750, removing the entry for 5–40–1750A, and revising the entries for Article 13 (title), 5–40–1660, 5–40–1670, and 5–40–1810 to read as follows:''

Section 553 of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a rule without providing notice and an opportunity for public comment. We have determined that there is good cause for making today's rule final without prior proposal and opportunity for comment because this rule is not substantive and imposes no regulatory requirements, but merely corrects a citation in a previous action. Thus, notice and public procedure are unnecessary. We find that this constitutes good cause under 5 U.S.C. 553(b)(B).

Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore 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)). Because the agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the Administrative Procedures Act or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA. This rule also 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, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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 governments, as specified by Executive Order 13132 (64 FR 43255, August 10, 1999). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

This technical correction action does not involve technical standards; 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. The rule also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). In issuing this rule, EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct, as required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996). EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1998) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the executive order. This rule does not impose an information collection burden under 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. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA had made such a good cause finding, including the reasons therefore, and established an effective date of March 6, 2008. 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**. This correction to the table in 40 CFR 52.2420(c) for Virginia is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: February 25, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for 40 CFR part 52 continues to read as follows:

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by adding an entry for 5–40–1750, removing the entry for 5–40–1750A, and revising the entries for Article 13 (title), 5–40–1660, 5–40–1670, and 5–40–1810 to read as follows:

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
Chapter 40 Existing Stationary Sources				
*	*	*	*	*
Part II Emission Standards				

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
* *	*	*	*	* *
Article 13 Emission Standards From Kraft Pulp and Paper Mills (Rule 4–13)				
5–40–1660	Applicability and designation of affected facilities.	4/01/99	10/19/07, 72 FR 59207	
5–40–1670	Definitions	4/01/99	10/19/07, 72 FR 59207	Existing: Kraft pulp mill, Lime kiln, Recovery furnace, Smelt dissolving tank. Added: Black liquor solids, Green liquor sulfidity, Neutral sulfite semichemical pulping operation, New design recovery furnace, Pulp and paper mill, Semichemical pulping process; Revised: Cross recovery furnace, Straight kraft recovery furnace. Remaining definitions are Federally enforceable as part of the Section 111(d) plan for kraft pulp mills (*see*, § 62.11610).
* *	*	*	*	* *
5–40–1750	Compliance	4/01/99	10/19/07, 72 FR 59207	
* *	*	*	*	* *
5–40–1810	Permits	4/01/99	10/19/07, 72 FR 59207	
* *	*	*	*	* *

* * * * *

[FR Doc. E8–4236 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R04–OAR–2007–0958–200802; FRL–8539–2]

Determination of Nonattainment and Reclassification of the Atlanta, GA 8-hour Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule finalizes EPA's finding that the Atlanta, Georgia marginal 8-hour ozone nonattainment area (Atlanta Area) has failed to attain the 8-hour ozone national ambient air quality standard (''NAAQS'' or ''standard'') by June 15, 2007, the attainment deadline set forth in the Clean Air Act (CAA) and Code of Federal Regulations (CFR) for marginal nonattainment areas. As a result of this finding, the Atlanta Area will be reclassified from a marginal to a moderate 8-hour ozone nonattainment area by operation of law, on the effective date of this rule. The effect of this reclassification will be to change the classification of the Atlanta Area, and to require continued progress towards attainment of the 8-hour ozone NAAQS through development of a revision to the Georgia State Implementation Plan (SIP) addressing the CAA's pollution control requirements for moderate ozone nonattainment areas. The SIP revision is due as expeditiously as practicable, but no later than December 31, 2008. The moderate area attainment date for the Atlanta Area is as expeditiously as practicable, but no later than June 15, 2010. This determination was proposed on October 16, 2007, and no comments were received.

DATES: *Effective Date:* This rule will be effective April 7, 2008.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2007–0958. All documents in the docket are listed on the www.regulations.gov Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the 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 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Stacy Harder, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. EPA Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. Phone: (404) 562–9042. E-mail: *harder.stacy@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is the Background for This Action?
II. What is the Effect of This Action?
III. What is the New Attainment Date for the Atlanta Area and When Must Georgia Submit a SIP Revision Fulfilling the Requirements for Moderate Ozone Nonattainment Areas?
IV. Final Action
V. Statutory and Executive Order Reviews

I. What Is the Background for This Action?

The CAA requires EPA to establish a NAAQS for pollutants that ''may reasonably be anticipated to endanger public health and welfare'' and to develop a primary and secondary standard for each NAAQS. The primary

standard is designed to protect human health with an adequate margin of safety and the secondary standard is designed to protect public welfare and the environment. EPA has set NAAQS for six common air pollutants referred to as criteria pollutants: Carbon monoxide, lead, nitrogen dioxide, ozone, particulate matter, and sulfur dioxide. On July 18, 1997, EPA promulgated a revised 8-hour ozone standard of 0.08 ppm. Under EPA regulations at 40 CFR part 50, the 8-hour ozone standard is attained when the 3-year average of the annual fourth highest daily maximum 8-hour average ambient air quality ozone concentration is less than or equal to 0.08 ppm (i.e., 0.084 ppm when rounding is considered). (See, 69 FR 23857 (April 30, 2004) **FOR FURTHER INFORMATION CONTACT**.)

The Atlanta Area is located in Northern Georgia and consists of Barrow, Barton, Carroll, Cherokee, Clayton, Cobb, Coweta, DeKalb, Douglas, Fayette, Forsyth, Fulton, Gwinnett, Henry, Newton, Paulding, Pickens, Rockdale, Spaulding, and Walton Counties. The Atlanta Area was initially designated for the 8-hour ozone standard on April 30, 2004, and classified as ''marginal'' nonattainment. For areas subject to title I, Part D, Subpart 2 of the CAA, such as the Atlanta Area, the maximum period for attainment runs from the effective date of designations for the 8-hour ozone NAAQS. This attainment period must also be the same period as provided in Table 1 of section 181(a) of the CAA: Marginal—3 years; Moderate—6 years; Serious—9 years, Severe—15 or 17 years; and Extreme—20 years.

On October 16, 2007, EPA published a rulemaking proposing its determination that the Atlanta Area did not attain the 8-hour ozone NAAQS by June 15, 2007, the applicable attainment date for marginal nonattainment areas, and proposing a SIP submission schedule. See, 72 FR 58572. The proposed finding was based on ambient air quality data from years 2004, 2005 and 2006. In the October 16, 2007, proposal, EPA explained that, consistent with Section 181(b)(2) of the CAA, when EPA finalizes its determination that the Atlanta Area failed to attain, and that requirement becomes effective, the Atlanta Area would be reclassified by operation of law to the next highest classification, or ''moderate'' nonattainment. See the discussion of the appropriate reclassification of the area in the proposal at 72 FR 58572, 58574. EPA further proposed that the State submit the SIP revisions meeting the new moderate area requirements as expeditiously as practicable, but no later than December 31, 2008. For further background, see EPA's October 16, 2007, proposal. EPA provided an opportunity for public comment on its October 16, 2007, proposal, but received no comments.

II. What Is the Effect of This Action?

This action finalizes EPA's October 16, 2007, proposed finding that the Atlanta Area failed to attain the 8-hour ozone standard by June 15, 2007, as prescribed by the CAA for marginal ozone nonattainment areas. The basis of this final action is the 2004–2006 air quality data demonstrating that the Atlanta Area did not attain the standard by the attainment date. Under the CAA, the effect of a final finding that an area has not attained the 8-hour ozone standard by the attainment date is that the area is reclassified by operation of law to a higher classification. For further information on reclassifications in general and specific information regarding the Atlanta Area reclassification, see, EPA's proposal at 72 FR 58572. As a result of EPA's determination, the Atlanta Area will be reclassified by operation of law to moderate nonattainment pursuant to section 181(b)(2) of the CAA on the effective date of this action. In addition, this action sets the dates by which Georgia must submit revisions to the Georgia SIP addressing the CAA's pollution control requirements for moderate ozone nonattainment areas and attainment of the 8-hour ozone standard.

III. What Is the New Attainment Date for the Atlanta Area and When Must Georgia Submit a SIP Revision Fulfilling the Requirements for Moderate Ozone Nonattainment Areas?

When an area is reclassified, a new attainment date for the reclassified area must be established. Section 181 of the CAA states that the attainment date for moderate nonattainment areas shall be as expeditiously as practicable, but not later than six years after designation, or June 15, 2010, in the case of the Atlanta Area. The ''as expeditiously as practicable'' attainment date will be determined as part of the action on the required SIP submittal demonstrating attainment of the 8-hour ozone standard.

When an area is reclassified, EPA has the authority under section 182(i) of the CAA to adjust the CAA's submittal deadlines for any new SIP revisions that are required as a result of the reclassification. Pursuant to 40 CFR 51.908(d), for each nonattainment area, the state must provide for implementation of all control measures needed for attainment no later than the beginning of the attainment year ozone season. The attainment year ozone season is the ozone season immediately preceding a nonattainment area's attainment date, in this case, 2009 (40 CFR 51.900(g)). The ozone season is the ozone monitoring season as defined in 40 CFR part 58, Appendix D, section 4.1, Table D–3 (October 17, 2006, 71 FR 61236). For the purposes of this reclassification of the Atlanta Area, March 1, 2009, is the beginning of the ozone monitoring season. As a result and in light of discussions with Georgia, EPA determines that the required SIP revision be submitted as expeditiously as practicable, but no later than December 31, 2008. This timeline also calls for implementation of applicable controls no later than the beginning of the ozone monitoring season. The SIP revision must include the requirements for moderate areas. See, EPA's proposal at 72 FR 58572, 58575.

IV. Final Action

Pursuant to CAA section 181(b)(2), EPA is now finalizing its determination that the Atlanta Area failed to attain the 8-hour ozone standard by June 15, 2007, the CAA's attainment date for marginal ozone nonattainment areas. As a result, the Atlanta Area will be reclassified by operation of law as a moderate nonattainment area on the effective date of this rulemaking. The submittal of Georgia's moderate nonattainment SIP revision will be due as expeditiously as practicable, but no later than December 31, 2008. The requirements for this SIP submittal are described in section 182 of the CAA and applicable EPA guidance. See, EPA's October 16, 2007, proposal, for further information regarding this action.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

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

The Agency has determined that the finding of nonattainment would result in none of the effects identified in the Executive Order. Under section 181(b)(2) of the CAA, determinations of nonattainment are based upon air quality considerations and the resulting reclassifications must occur by operation of law.

B. Paperwork Reduction Act

This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* This final rule reclassifying the Atlanta Area as a moderate ozone nonattainment area and adjusting applicable deadlines does not establish any new information collection burden. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information. An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of this action on small entities, small entity is defined as: (1) A small business that is a small industrial entity as defined in the U.S. Small Business Administration (SBA) size standards, see, 13 CFR part 121; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. Determinations of nonattainment and the resulting reclassification of nonattainment areas by operation of law under section 181(b)(2) of the CAA do not in and of themselves create any new requirements. Instead, this rulemaking only makes a factual determination, and does not directly regulate any entities. After considering the economic impacts of this action on small entities, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to state, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation to why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This final rule does not include a Federal mandate within the meaning of UMRA that may result in expenditures of $100 million or more in any one year by either state, local, or Tribal governments in the aggregate or to the private sector, and therefore, is not subject to the requirements of sections 202 and 205 of the UMRA. Also, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments and therefore, is not subject to the requirements of section 203. EPA believes that the finding of nonattainment is a factual determination based upon air quality considerations and that the resulting reclassification of the Atlanta Area must occur by operation of law. Thus, EPA believes that this finding does not constitute a Federal mandate, as defined in section 101 of the UMRA, because it does not impose an enforceable duty on any entity.

E. Executive Order 13132: Federalism

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

This final rule does not have federalism implications. It will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This rule merely determines that the Atlanta Area has not attained the 8-hour ozone standard by its applicable attainment date, and reclassifies the Atlanta Area as a moderate ozone nonattainment area and adjusts applicable deadlines. Thus, Executive Order 13132 does not apply to this final rule.

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

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

merely determines that the Atlanta Area has not attained the 8-hour ozone standard by its applicable attainment date, and reclassifies the Atlanta area as a moderate ozone nonattainment area and adjusts applicable deadlines. The CAA and the Tribal Authority Rule establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this rule does nothing to modify that relationship. Thus, Executive Order 13175 does not apply to this final rule.

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

Executive Order 13045: ''Protection of Children From Environmental Health and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that (1) is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. This final rule is not subject to Executive Order 13045 because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health risks or safety risks addressed by this rule present a disproportionate risk to children. This action merely determines that the Atlanta Area has not attained the 8-hour ozone standard by its applicable attainment date, and reclassifies the Atlanta area as a moderate ozone nonattainment area and adjusts applicable deadlines.

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

This action is not subject to Executive Order 13211, ''Actions That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS. This final rule merely determines that the Atlanta Area has not attained the 8-hour ozone standard by its applicable attainment date, and reclassifies the Atlanta Area as a moderate ozone nonattainment area and adjusts applicable deadlines. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq*., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a 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**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

K. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this final action must be filed in the United States Court of Appeals for the appropriate circuit by *May 5, 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) of the CAA.)

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: February 22, 2008.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

■ 40 CFR part 81 is amended as follows:

PART 81—[AMENDED]

■ 1. The authority citation for part 81 continues to read as follows:

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

Subpart C—Section 107 Attainment Status Designation

■ 2. In § 81.311, the table entitled ''Georgia-Ozone (8-Hour Standard)'' is amended by revising the entry for ''Atlanta, GA'' to read as follows:

§ 81.311 Georgia.

* * * * *

GEORGIA-OZONE (8-HOUR STANDARD)

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
Atlanta, GA:				
Barrow County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Bartow County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Carroll County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Cherokee County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Clayton County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Cobb County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Coweta County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
DeKalb County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Douglas County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Fayette County		Nonattainment	April 7, 2008	Subpart 2/Moderate.

GEORGIA-OZONE (8-HOUR STANDARD)—Continued

Designated area	Designation [a]		Category/classification	
	Date [1]	Type	Date [1]	Type
Forsyth County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Fulton County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Gwinnett County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Hall County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Henry County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Newton County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Paulding County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Rockdale County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Spalding County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
Walton County		Nonattainment	April 7, 2008	Subpart 2/Moderate.
* *	*	*	*	* *

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is June 15, 2004, unless otherwise noted.

* * * * *

[FR Doc. E8–4349 Filed 3–5–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[EPA–HQ–RCRA–2007–0936; FRL–8538–8]

Land Disposal Restrictions: Site-Specific Treatment Variance for P and U-Listed Hazardous Mixed Wastes Treated by Vacuum Thermal Desorption at the EnergySolutions' Facility in Clive, UT

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is issuing a direct final rule granting a site-specific treatment variance to Energy*Solutions* LLC (Energy*Solutions*) in Clive, Utah for the treatment of certain P and U-listed hazardous waste containing radioactive contamination (''mixed waste'') using vacuum thermal desorption (VTD). This variance is an alternative treatment standard to treatment by combustion (CMBST) required for these wastes under EPA rules implementing the land disposal restriction (LDR) provisions of the Resource Conservation and Recovery Act (RCRA). The Agency has determined that combustion of the solid treatment residue generated from the VTD unit is technically inappropriate due to the effective performance of the VTD unit. Once the P and U-listed mixed waste are treated using VTD, the solid treatment residue can be land disposed without further treatment. This treatment variance is conditioned upon Energy*Solutions* complying with a Waste Family Demonstration Testing (WFDT) plan specifically addressing the treatment of these P and U listed wastes, which is to be implemented through a RCRA Part B permit modification for the VTD unit.

DATES: This direct final rule will be effective May 5, 2008 without further notice, unless EPA receives adverse written comment by April 7, 2008. If EPA receives significant adverse comments, EPA will withdraw this direct final rule before it takes effect by means of a timely withdrawal notice in the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2007–0936, by one of the following methods:

www.regulations.gov: Follow the on-line instructions for submitting comments.

E-mail: rcra-docket@epa.gov and *parra.juan@epa.gov.* Attention Docket ID No. EPA–HQ–RCRA–2007–0936.

Fax: 202–566–9744. Attention Docket ID No. EPA–HQ–RCRA–2007–0936.

Mail: RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–RCRA–2007–0936. Please include a total of 2 copies.

Hand Delivery: EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No EPA–HQ–RCRA–2007–0936. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://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 *http://www.regulations.gov,* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the HQ–Docket Center, Docket ID No

EPA–HQ–RCRA–2007–0936, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For more information on this rulemaking, contact Juan Parra, Hazardous Waste Minimization and Management Division, Office of Solid Waste (MC 5302 P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308–0478; fax (703) 308–8443; or *parra.juan@epa.gov* or Elaine Eby. Hazardous Waste Minimization and Management Division, Office of Solid Waste (MC 5302 P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308–8449; fax (703) 308–8443; or *eby.elaine@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why Is EPA Using a Direct Final Rule?

EPA is publishing this rule as a direct final rule because we view this action as noncontroversial. Based on the information and data submitted by the petitioner for this site specific treatment variance and the oversight being provided by the regulatory authority in the State of Utah, we do not believe that there will be significant adverse comments to this action. However, in the ''Proposed Rules'' section of today's **Federal Register**, we are publishing a separate document that will serve as a proposed rule should EPA receive significant adverse comments on this action. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives significant adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

B. Does This Action Apply to Me?

This action applies only to Energy*Solutions* located in Clive, Utah.

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I. Summary of This Action

EPA is taking direct final action to grant a site-specific treatment variance to EnergySolutions in Clive, Utah, for the treatment of certain P and U-listed mixed waste using an alternative treatment standard of VTD.[1] The current treatment standard for these wastes is combustion (CMBST). See 40 CFR 268.40 and 268.42.

EnergySolutions' VTD unit currently operates pursuant to a Part B RCRA permit issued by the State of Utah which (among other things) authorizes treatment of mixed waste containing both semi-volatile organic compounds (SVOC) and volatile organic compounds (VOC). In 2006, EnergySolutions submitted a petition to EPA for a site-specific treatment variance from the LDR treatment standard of CMBST for various P and U-listed mixed waste. The petitioner is seeking an alternative treatment standard of VTD. EnergySolutions provided data and information indicating that the VTD unit is capable of achieving at least 99.99% removal of analyzable SVOC[2] and VOC[3] constituents in the solid treatment residue generated from the VTD unit; analysis of the solid treatment residue shows that the LDR concentration-based treatment standards for these chemical constituents are consistently achieved. (Concentration-based treatment standards for specific chemical constituents are found in 40 CFR 268.48.) The petitioner also supplied performance data demonstrating that the VTD unit effectively removes chemical compounds (in the SVOC and VOC families) from the mixed waste having similar chemical and physical properties (i.e., boiling points and vapor pressures) to the regulated hazardous constituents in the P and U-listings that are the subject of this variance. The P and U-listed wastes subject to this treatment variance are not analyzable hence the treatment standard of CMBST. EnergySolutions contends that additional treatment of the solid treatment residue, using the treatment method of CMBST, would be technically inappropriate in that substantial treatment, as measured with the use of similar chemical compounds, has already been achieved using the VTD unit.

The Agency has reviewed the information and data presented by the petitioner and has determined that additional treatment of the solid treatment residue (i.e., complying with the existing CMBST treatment standard) is technically inappropriate given the documented performance of the VTD unit. The Agency is therefore taking direct final action to grant a site-specific treatment variance to EnergySolutions for an alternative LDR treatment standard of VTD for certain P and U-listed mixed wastes that have undergone treatment using the VTD process. Once treated, the solid treatment residue can be land disposed, in this case in EnergySolutions' on-site hazardous mixed waste landfill. As a

[1] Mixed waste is defined as radioactive waste that contains hazardous waste that either: (1) Is listed as a hazardous waste in Subpart D of 40 CFR Part 261; or (2) causes the waste to exhibit any of the hazardous waste characteristics identified in Subpart C of 40 CFR Part 261. Mixed waste is regulated under multiple authorities: RCRA (for the non-radioactive component), as implemented by EPA or authorized States; and the Atomic Energy Act (AEA) (for the source, special nuclear, or by-product material component), as implemented by the Nuclear Regulatory Commission (NRC), NRC agreement States (for commercially-generated mixed wastes), or the Department of Energy (DOE) (for defense-related mixed waste generated by DOE activities). This treatment variance is limited to the RCRA requirements for treatment of the hazardous waste portion of the mixed waste and does not affect the regulatory requirements under AEA authority. As a result, absent the variance, mixed waste identified as RCRA P and U-listed hazardous wastes are subject to the CMBST treatment standard. This must take place in a high temperature organic destruction unit, permitted for both the radioactive component and for the RCRA hazardous wastes.

[2] The SVOC waste family is defined as those chemical compounds that are detected using SW–846 Method 8270.

[3] The VOC waste family is defined as those chemical compounds that are detected using SW–846 Method 8260.

condition of this variance, EnergySolutions must receive and be in compliance with a RCRA permit modification for the VTD process specifically establishing a treatment protocol for these P and U-listed wastes. This permit modification will consist of a WFDT plan that establishes conditions on the treatment process that should assure optimized treatment of the mixed waste.

II. Background

Under sections 3004(d) through (g) of RCRA, land disposal of hazardous wastes is normally prohibited unless wastes are able to meet the treatment standards established by EPA. Section 3004(m) of RCRA requires EPA to set levels or methods of treatment that substantially diminishes the hazardous waste's toxicity or substantially reduces the likelihood of hazardous constituents migrating from the waste so that short-term and long-term threats to human health and the environment posed by the waste's land disposal are minimized. EPA interprets this language to authorize treatment standards based on the performance of best demonstrated available technology (BDAT). This interpretation was upheld by the D.C. Circuit in *Hazardous Waste Treatment Council* v. *EPA,* 886 F.2d 355 (D.C. Cir. 1989).

However, facilities can apply for a site-specific treatment variance in cases when a hazardous waste that is generated cannot be treated to the specified levels or when it is technically inappropriate for the waste to undergo such treatment (See 51 FR 40605–40606 (November 7, 1986)). In such cases, the generator or treatment facility may apply for a variance from a treatment standard. The requirements for a treatment variance are found at 40 CFR 268.44.[4]

An applicant for a site-specific treatment variance may demonstrate that it is inappropriate to require a waste to be treated by the method specified as the treatment standard, even though such treatment is technically possible (40 CFR 268.44(h)(2)). This is the criteria pertinent to today's action in that EnergySolutions claims it is technically inappropriate to further treat the waste (i.e., solid treatment residue) that has already been treated to remove over 99.99% of the hazardous organic constituents contained in the waste.

III. Development of This Variance

A. EnergySolutions' Petition

On April 28, 2006, EnergySolutions petitioned the Agency for a site-specific treatment variance from the treatment standard of CMBST for certain P and U-listed mixed wastes.[5] EnergySolutions requested an alternative treatment standard of VTD[6] which would allow land disposal of the solid treatment residue from the VTD unit without having to combust the treatment residue (as required by the CMBST treatment standard). The petitioner contends that additional treatment is inappropriate and would result in little if any additional reduction of the waste's toxicity.

EnergySolutions provided data and information indicating that treatment using their VTD unit achieves substantial reductions in the concentrations of organic constituents (greater than 99.99%) in the solid treatment residue. Data included SVOC and VOC concentrations in the untreated waste, organic liquid condensate and solid treatment residue from demonstration tests conducted in August and September of 2004 and October of 2006. The petitioner also supplied performance data indicating that the VTD unit can remove 99.99% of organic constituents with chemical and physical properties (i.e., boiling points and vapor pressures) comparable to the organic constituents in the P and U-listed hazardous waste identified in their petition.[7] The petitioner also provided a description of the analytical and methodological protocol established by the State of Utah that describes how the VTD unit will be optimized to assure continued optimized removal of hazardous organic constituents from the P and U-listed mixed waste.

B. What Type and How Much Mixed Waste Are Subject to This Variance?

The wastes subject to this treatment variance are mixed waste consisting of discarded commercial chemical products (P and U-listed hazardous wastes) that are required to meet a technology performance standard of CMBST.[8] It also includes secondary waste (e.g., carbon filter media) generated by the EnergySolutions' VTD unit during the processing of the mixed waste.

The Department of Energy (DOE) has identified approximately 50 cubic meters (m3) of mixed waste (tank sludges and decontamination residues) in legacy storage in Oak Ridge, Tennessee. EnergySolutions has also identified an additional 900 m3 of hardened tank sludge at a commercial facility. Another potential source of hazardous waste to be treated by EnergySolutions' VTD unit is from a commercial chemical manufacturer. The waste can be characterized as tank sludge, much of which is in a hardened/compressed form, identified as U053 (crotonaldehyde) and U122 (formaldehyde) mixed waste.[9]

C. Description of the VTD Process

EnergySolutions' VTD unit holds a permit from the State of Utah as a RCRA Subpart X miscellaneous treatment unit. This permit allows the facility to treat mixed waste that contains SVOC and VOC waste families. The VTD unit has

[4] In the case where the rules specify that a method of treatment must be used to treat a particular constituent or constituents, EPA also allows facilities to demonstrate that an alternative treatment method can achieve a measure of performance equivalent to that achievable by the EPA-specified treatment method (40 CFR 268.42(b)). This demonstration of equivalency, known as a Determination of Equivalent Treatment (DET), is typically both waste-specific and site-specific. EPA notes that the petition submitted by EnergySolutions appears to meet the criteria of 40 CFR 268.42(b) in that the solid treatment residue from the VTD removes SVOC and VOC constituents with the same efficiency as hazardous waste combustion units. However, while the Agency could choose to evaluate the petition under the criteria developed for a DET, we are processing EnergySolutions petition under the criteria found in 40 CFR 268.44, as requested in EnergySolutions petition to EPA. Today's decision is thus based on the rationale provided by EnergySolutions treatment variance petition, i.e., that it is inappropriate to require the waste to be treated by the method specified as the treatment standard (i.e., CMBST), even though such treatment is technically possible (see 40 CFR 268.44(h)(2)).

[5] Under 40 CFR 268.42, ''CMBST'' is defined as ''[h]igh temperature organic destruction technologies, such as combustion in incinerators, boilers, or industrial furnaces operated in accordance with the applicable requirements of 40 CFR Part 264, Subpart O, or 40 CFR Part 265, Subpart O, or 40 CFR Part 266, Subpart H, and in other units operated in accordance with applicable technical operating requirements; and certain non-combustive technologies, such as the Catalytic Extraction Process.'' EnergySolutions' VTD unit does not meet this definition.

[6] For certain P and U-listed wastes, EPA was not able to identify an analytical method by which treatment effectiveness could be determined in the regulated constituent. As a result, EPA promulgated CMBST as the treatment standard for these P and U-listed wastes. CMBST was selected as the method of treatment because it is relatively indiscriminate in the destruction of organics due to the high temperatures, efficient mixing, and consistent residence times present in a well-designed and well-operated facility (see 55 FR 22611, June 1, 1990).

[7] The specific P and U-listed hazardous wastes associated with the untreated mixed waste had been conservatively determined by the facility, in consultation with the State of Utah, using the ''derived-from rule,'' described in 40 CFR 261.3(c)(2)(i). A listing of the specific waste codes and chemicals applicable to this rule can be found in the docket supporting this rule.

[8] A list of these chemicals, with associated boiling point data, is included as part of the docket supporting this rulemaking.

[9] Waste codes are assigned by the generator based upon process knowledge of raw feed materials and by-products within the chemical manufacturing process.

been in operation since March 2005, and has processed more than 304,000 kilograms (kg) of mixed waste. EnergySolutions' VTD process design typically achieves a removal efficiency of 99.99% for SVOC and VOC waste families in the VTD solid treatment residue and meets all applicable LDR concentration-based treatment standards. Treatment residue from the unit is land disposed at EnergySolutions' on-site permitted hazardous mixed waste landfill after all other regulatory requirements are met.

The VTD unit consists of four subsystems: (1) A thermal separation system (dryer); (2) a processed material discharge system; (3) an off-gas treatment train; and (4) a condensate tank system.[10] The treatment system operates by indirectly heating the raw waste fed into the unit, vaporizing the volatile and semi-volatile organic constituents and capturing these constituents as a condensate. The process has one input stream (the raw waste) and three output streams. The three output streams are: (1) The solid treatment residue; (2) the concentrated liquid condensate; and (3) an off-gas which is released to the atmosphere after passing through a series of condensers and filters. It should be noted that the liquid condensate and the off-gas are not subject to this rulemaking. The condensate is still subject to the CMBST treatment standard before it can be land disposed, and is sent off-site for incineration. The off-gas emission is regulated under the state-issued Part B Permit (its emission limits established using a risk assessment under 40 CFR 270.32(b)(2) (the so-called omnibus provision) and by an Air Approval Order issued by the Utah Department of Environmental Quality).

The thermal separation unit or dryer is a completely enclosed cylindrical tank with a processing capacity of approximately 29 cubic feet (ft3) of feed material per process cycle. Several process cycles can be run per day. It is indirectly heated by a propane-fired furnace and is permitted to reach process temperatures up to 650 °C. Feed material is introduced into the dryer through a hopper. The system is maintained below atmospheric pressure by a vacuum pump. Nitrogen is introduced to displace oxygen to a level no greater than 7%, which is below the oxygen ignition point for volatile and semi-volatile contaminants. The nitrogen purge gas carries the volatilized contaminants from the dryer to the off-gas treatment train. Treatment time and temperature in the dryer are established for each process cycle following the characterization of the raw waste.

The processed material discharge system is fully enclosed and consists of a hopper with a cooling jacket, a conveyor system, and a collection container. The system includes water spray nozzles to aid in cooling the processed material and to provide dust control. The dry processed material is collected in the discharge system after the process cycle is completed. An auger conveys the discharged solid to a metal receiving box. Post-treatment analytical samples are collected from the box or directly from the processed material discharge system and tested for all analyzable regulated constituents originally identified in the waste feed. Once successful verification results are received, the process material is land disposed at EnergySolutions' on-site mixed hazardous waste landfill.

Off-gas is generated within the dryer and is purged with a nitrogen carrier gas. The off-gas treatment train, also called the air pollution control (APC) system, consists of condensers in series, a vacuum pump, and a filtration adsorption system with a pre-filter, HEPA filter, and carbon adsorption beds. The nitrogen provides a relatively inert atmosphere (oxygen content less than 7%), which prevents combustion of the volatile or semi-volatile constituents. The gas stream then passes through the filtration system to remove the remaining SVOC and VOC.

Hot gas from the dryer is fed to the condensers and the condensers cool the gas stream and the majority of the volatile and semi-volatile compounds are brought to a liquid phase. The condensate tank system consists of traps, for temporary storage, from which the liquid condensate can either be transferred to permanent tanks or to portable totes. Traps located in the liquid discharge line from the condensers collect the condensate. It is then sent off-site for incineration at a RCRA permitted facility.

The liquid condensate is more amenable to combustion than the untreated waste.[11] Incineration of the liquid condensate optimizes the destruction of toxic organics and yields a smaller volume of post-incineration waste. The liquid condensate also contains only approximately 5% of the total amount of radionucliides in the untreated waste and presents a significantly lower potential for radioactive materials to be emitted to the atmosphere through the combustion process.

The off-gas emission is vented to the atmosphere through a stack that discharges approximately 35 feet above ground level. The gas emission leaves the APC system and its exit velocity is boosted with outside air through a blower in order to provide good dispersion of any remaining emissions. The APC system also is designed to allow the carrier gas to be recycled back to the dryer. System data are displayed as an electronic process flow diagram that is continuously monitored by trained technicians. Dryer temperature, dryer pressure, oxygen level and off-gas exit temperature are included in the parameters that are measured.[12]

The facility currently ships separately the solid treatment residue, containing the majority of the radionucliides (over 95%) and negligible concentration of organics to its on-site hazardous mixed waste landfill, and the liquid condensate, containing the majority of the organic constituents, to an incinerator to meet the CMBST requirement. The incineration takes place in a unit permitted for both the radioactive component and for RCRA hazardous wastes.[13]

IV. EPA's Reasons for Granting This Variance

EPA has determined that given the similarities in chemical and physical properties and separation characteristics between the SVOC and VOC mixed waste and the P and U-listed mixed wastes, that processing the P and U-listed mixed waste through the VTD unit will achieve the same level of treatment achieved for the SVOC and VOC mixed wastes (i.e., 99.99% removal in the solid treatment residue). Furthermore, EPA has concluded that subsequent combustion of the solid treatment residue from the VTD unit will not substantially reduce its toxicity so that subsequent treatment by the required treatment standard of CMBST is unnecessary and will achieve no additional benefit. This is because the solid treatment residue has negligible concentrations of the residual organics. Put another way, EPA has determined

[10] A process diagram of the EnergySolutions' VTD unit can be found in the docket supporting this rulemaking. Schematic drawings of the equipment are also provided.

[11] Analytical data on the organic condensate and solid process residuals from VTD demonstration tests completed in August and September of 2004 and October of 2006 can be found in the docket supporting this rulemaking.

[12] More detailed information on the EnergySolutions' VTD technology process can be found in the docket for this rulemaking.

[13] There are only two permitted mixed waste incinerators in the U.S. These facilities, due to the operational design of their units, have greater available capacity to accept liquid condensate waste and have a backlog of solid mixed wastes.

that additional treatment with CMBST, as required by the treatment standard of CMBST, is technically inappropriate due to the effectiveness of the VTD treatment unit for the removal of organic constituents. Therefore, EPA is taking direct final action to grant a site-specific treatment variance to EnergySolutions for an alternative treatment standard of VTD for the land disposal of solid treatment residue from the treatment of certain P and U-listed mixed waste.

Not only would further treatment of the residue be technically inappropriate, but it could have environmentally detrimental effects. Under their state-issued Part B permit, EnergySolutions is required to operate the VTD unit so that most (generally over 95%) of the radioactive component remains in the solid treatment residue.[14] Combustion of that treatment residue could release some of the radioactive component to the atmosphere through the combustion process. To limit this potential, the Agency believes that processing the P and U-listed hazardous wastes through the VTD unit followed by disposal of the solid treatment residue in the on-site hazardous mixed waste landfill is environmentally preferable.

V. Conditions of the Variance

Although EPA believes the applicant has made a technically sound presentation, and believes further from study of the VTD process that it should continue to result in highly effective treatment, EPA (and the applicant, and the State of Utah (the authorized permit-issuer)) believes that conditions can and should be imposed on the treatment process to assure its continued effective operation. Therefore, as a condition of its RCRA permit, EnergySolutions is required to submit to the State of Utah all the appropriate data and documentation to support a RCRA Part B permit modification addressing the treatment of these P and U-listed mixed wastes using VTD. Most significantly for purposes of the treatment variance, this submission is to include a new WFDT plan for the P and U-listed mixed wastes developed by the facility and approved by the State of Utah. This plan identifies the surrogate compounds that reflect treatment of the most difficult to treat CMBST-coded organic compounds (e.g., those with the highest vapor pressures and boiling points).[15] Surrogates will have to be selected to measure the level of treatment of the organic compounds that do not have analytical methods of detection or quantification. The RCRA permit, when modified, will require compliance with this plan for each batch of P and U-listed mixed waste that requires CMBST.[16] EPA's site-specific treatment variance is conditioned on EnergySolutions' adhering to the WFDT plan specifically addressing the treatment of these P and U-listed wastes and implemented through a RCRA Part B permit modification for the VTD unit.

A WFDT plan is required in the state-issued Part B permit for every new waste type to be treated in the EnergySolutions' VTD unit. Because many of the organic chemicals in P and U-listed hazardous waste do not have analytical methods for detection or quantification, the WFDT plan, as required by the permit, will need to identify individual surrogate compounds that reflect treatment of the non-analyzable organic compounds in the waste family. The volatility of each target contaminant is the most important factor in thermal desorption separation.[17] Most of these chemicals (99 of 139) have boiling points less than 200°C, 28 have boiling points between 200°C and 300°C, seven have boiling points between 300°C and 400°C, four have boiling points between 400°C and 500°C, and only one of the compounds has a boiling point greater than 500°C; at 534°C. The VTD system is permitted to operate at temperatures up to 650°C. Based on the volatility of the organic constituents in the boiling point table and the operational temperature of the VTD unit, processing these P and U-listed hazardous waste through the VTD system can be expected to remove the organic constituents (especially those organics requiring CMBST) from the solid material and concentrate them within the liquid condensate, including the surrogates chosen to represent the non-analyzable P and U-listed organic constituents.

Surrogates are also used to measure the performance of the VTD unit. Rather than test each specific organic constituent associated with each waste family, the facility chooses surrogate compounds to represent the most difficult to treat organic chemicals in the entire waste family matrix (i.e., highest boiling points and pressure vapors). The WFDT plan must identify these surrogate compounds to be spiked into the waste as indicators for the entire waste family performance in the VTD unit.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

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

B. Paperwork Reduction Act

This action does not impose any new information collection burden. This action grants a site-specific treatment variance to EnergySolutions for the treatment of certain P and U-listed mixed wastes using VTD instead of the treatment standard required under RCRA's LDR program, CMBST. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR 268.42 and .44 under the provisions of the *Paperwork Reduction Act,* 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2050–0085. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act

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

This site-specific treatment variance does not create any new requirements.

[14] Data relating to radiochemical properties of the condensate generated through the process is included in the docket supporting this rulemaking.

[15] The objectives of the WFDT are: (1) Determine if the P and U-listed hazardous wastes that have CMBST as the LDR treatment standard are amenable to VTD processing and that the processed material meets LDR standards for all analyzable P and U hazardous organic constituents; (2) identify and justify representative surrogate compounds for the demonstration for those P and U hazardous organic constituents that do not have an analytical method of detection; (3) determine the optimal operational and system parameters for the new waste family that will ensure at least 99.99 percent removal efficiency is attained for such hazardous wastes; (4) account for toxic waste constituents through material balances; (5) verify compliance of the VTD unit with all applicable conditions of the EnergySolutions' state-issued Part B Permit; and (6) determine concentration levels for the hazardous organic constituents in treatment residuals to determine they are below analytical reporting levels, including surrogate compounds chosen for non-analyzable or difficult to treat organics.

[16] If the conditions outlined in the WFDT plan are not met for each batch of P and U-listed mixed waste, EnergySolutions must re-treat the batch of waste to meet the conditions established in the plan or send the waste off-site for CMBST.

[17] The CMBST Code Boiling Point Table is included in the docket supporting this rulemaking. It provides boiling point data for those non-analyzable hazardous organics that require CMBST as the LDR treatment standard.

Rather, it establishes an alternative treatment standard for specific waste codes and applies to only one facility. Therefore, we hereby certify that this rule will not add any new regulatory requirements to small entities. This rule, therefore, does not require a regulatory flexibility analysis.

D. Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of UMRA) for State, local, or tribal governments or the private sector. The rule imposes no enforceable duty on any State, local or tribal governments or the private sector. EnergySolutions will obtain from the State of Utah a RCRA permit modification for their VTD unit to treat these P- and U-listed wastes. This action, however, does not impose any new duties on the state's hazardous waste program. EPA has determined, therefore, that this rule contains no regulatory requirements that might significantly or uniquely affect small governments in that the authority for this action already exists with the State of Utah.

E. Executive Order 13132: Federalism

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

This final rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action finalizes a site-specific treatment variance applicable to one facility. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (59 FR 22951, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This final rule does not have tribal implications, as specified in Executive Order 13175. This action is a site-specific treatment variance that applies to only one facility, which is not a tribal facility or located on tribal lands. Thus, Executive Order 13175 does not apply to this rule.

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

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

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

This action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Executive Order 12898: Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Executive Order 12898 (59 FR 7629 (February 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this direct final rule will not have a disproportionately high and adverse human health or environmental effects

on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. The treatment variance being finalized applies to certain P and U-listed mixed waste that is treated in an existing, permitted RCRA facility, ensuring protection to human health and the environment. Therefore, the rule will not result in any disproportionately negative impacts on minority or low-income communities relative to affluent or non-minority communities.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective May 5, 2008.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Mixed waste and variances.

Dated: February 28, 2008.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

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

PART 268—LAND DISPOSAL RESTRICTIONS

■ 1. The authority citation for part 268 continues to read as follows:

Authority: 42 U.S.C. 6905, 6912(a), 6921, and 6924.

Subpart D—Treatment Standards

■ 2. In § 268.42, the table in paragraph (a) is amended by adding in alphabetical order an entry for ''VTD'' to read as follows:

§ 268.42 Treatment standards expressed as specified technologies.

* * * * *

(a) * * *

Technology code	Description of technology-based standards
*	* * * * * * *
VTD	Vacuum thermal desorption of low-level radioactive hazardous mixed waste in units in compliance with all applicable radioactive protection requirements under control of the Nuclear Regulatory Commission.
*	* * * * * * *

■ 3. In § 268.44, the table in paragraph (o) is amended by adding in alphabetical order an entry for ''EnergySolutions LLC, Clive, UT'' and adding a new footnote 14 to read as follows:

§ 268.44 Variance from a treatment standard.

* * * * *

(o) * * *

Facility name [1] and address	Waste code	See also	Regulated hazardous constituent	Wastewaters		Nonwastewaters	
				Concentration (mg/L)	Notes	Concentration (mg/kg)	Notes
*	* * *	*	*		*		
EnergySolutions LLC, Clive, UT [14].	P and U-listed hazardous waste requiring CMBST.	Standards under § 268.40.	NA	NA	NA	CMBST or VTD.	NA.
*	* * *	*	*		*		*

[1] A facility may certify compliance with these treatment standards according to provisions in 40 CFR 268.7.

* * * * * * * *

[14] This site-specific treatment variance applies only to the solid treatment residue resulting from the vacuum thermal desorption (VTD) of P and U-listed hazardous waste containing radioactive contamination (''mixed waste'') at the EnergySolutions' LLC (EnergySolutions) facility in Clive, Utah that otherwise requires CMBST as the LDR treatment standard. Once the P and U-listed mixed waste are treated using VTD, the solid treatment residue can be land disposed at EnergySolutions' onsite RCRA permitted hazardous mixed waste landfill without further treatment. This treatment variance is conditioned on EnergySolutions complying with a Waste Family Demonstration Testing Plan specifically addressing the treatment of these P and U-listed wastes, with this plan being implemented through a RCRA Part B permit modification for the VTD unit. NOTE: NA means Not Applicable.

[FR Doc. E8–4449 Filed 3–5–08; 8:45 am]
BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 224

[Docket No. 080225302–8314–01]

RIN 0648–XF85

Endangered and Threatened Species; Endangered Status for North Pacific and North Atlantic Right Whales

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

ACTION: Final rule.

SUMMARY: We, NMFS, completed a status review of right whales in the North Pacific and North Atlantic Oceans under the Endangered Species Act (ESA) in December 2006 and are listing the currently endangered northern right whale (*Eubalaena* spp.) as two separate, endangered species, North Pacific right whale (*E. japonica*) and North Atlantic right whale (*E. glacialis*).

DATES: This rule is effective on April 7, 2008.

ADDRESSES: Comments and materials received, as well as supporting documentation used in the preparation of this final rule, are available for public inspection by appointment during normal business hours at the NMFS Alaska Region, 709 W. 9th Street, Juneau, AK 21688 (for North Pacific right whale) or NMFS Northeast Region, One Blackburn Drive, Gloucester, MA 01930 (for North Atlantic right whale).

FOR FURTHER INFORMATION CONTACT: For North Pacific right whale, Brad Smith, NMFS Alaska Region (907) 271–5006; or Kaja Brix, NMFS, Alaska Region, (907) 586–7235; for North Atlantic right whale, Mark Minton, NMFS, Northeast Region, 978 281 9328, ext. 6534; and for general information on listing, Marta Nammack, (301) 713–1401, ext. 180. The final rule, references, petition, and other materials relating to this determination can be found on our website at *http://www.fakr.noaa.gov/* (North Pacific right whale) or *http://www.nero.noaa.gov/* (North Atlantic right whale).

SUPPLEMENTARY INFORMATION:

Background

On August 16, 2005, we received a petition from the Center for Biological Diversity (CBD) to list the North Pacific right whale as a separate endangered species under the ESA. CBD requested that we list the North Pacific right whale as a new endangered species based, in part, on recent scientific information that establishes new scientific names for right whale species. On January 26, 2006, we issued our finding that the petition presented substantial information indicating that the petitioned action may be warranted (71 FR 4344), and we requested information regarding the taxonomy and status of the North Pacific right whale, its habitat, biology, movements and distribution, threats to the species, or other pertinent information.

In December 2006, we completed a Review of the Status of the Right Whales in the North Atlantic and North Pacific Oceans (NMFS, 2006). On December 27, 2006, we published two proposed rules (71 FR 77694 - North Pacific and 71 FR 77704 - North Atlantic) to list these species as separate endangered species and invited public comment. These proposed rules summarize the information gathered and the analyses conducted in the status review of right whales in the North Pacific Ocean and in the North Atlantic Ocean.

Listing Determinations Under the ESA

The ESA defines an endangered species as one that is in danger of extinction throughout all or a significant portion of its range, and a threatened species as one that is likely to become endangered in the foreseeable future throughout all or a significant portion of its range (sections 3(6) and 3(20), respectively). The ESA requires us to determine whether any species is endangered or threatened because of any one of the following factors: (1) the present or threatened destruction, modification or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence (section 4(a)(1)(A)-(E)). We are to make this determination based solely on the best available scientific information after conducting a review of the status of the species and taking into account any efforts being made by states or foreign governments to protect the species. The focus of our evaluation of the ESA section 4(a)(1) factors is to evaluate whether and to what extent a given factor represents a threat to the future survival of the species. The focus of our consideration of protective efforts is to evaluate whether and to what extent they address the identified threats and so ameliorate a species' risk of extinction. The steps we follow in implementing this statutory scheme are to: (1) delineate the species under consideration; (2) review the status of the species; (3) consider the ESA section 4(a)(1) factors to identify threats facing the species; (4) assess whether certain protective efforts mitigate these threats; and (5) predict the species' future persistence.

Organization of This Final Rule

First, we provide a summary of our analysis that concludes that the North Pacific and North Atlantic right whales are separate species. Next, we provide responses to public comments on the proposed rules to list the North Pacific right whale as endangered (71 FR 77694; December 27, 2006) and the North Atlantic right whale as endangered (71 FR 77704; December 27, 2006). The determination that right whales in the North Atlantic and North Pacific Oceans are two separate species requires us to consider these species separately for the purposes of listing under the ESA. Therefore, for each of the two species, we follow with an extinction risk assessment, a summary of the ESA section 4(a)(1) factors, a summary of ongoing conservation efforts, and a final conclusion on status for each of the two species.

Review of ''Species'' Delineation

We have concluded that right whales in the North Pacific and North Atlantic exist as two species, the North Pacific right whale (*E. japonica*) and the North Atlantic right whale (E. glacialis). The status review indicates that separating the northern right whale into two different species is warranted in light of the compelling evidence provided by recent scientific studies on right whale taxonomy and classification. Genetic data now provide unequivocal support to distinguish three right whale lineages (including the southern right whale) as separate phylogenetic species: (1) the North Atlantic right whale (*E. glacialis*), ranging in the North Atlantic Ocean; (2) the North Pacific right whale (*E. japonica*), ranging in the North Pacific Ocean; and (3) the southern right whale (*E. australis*), historically ranging throughout the southern hemisphere's oceans (Rosenbaum *et al.*, 2000). See either of the two December 27, 2006, proposed rules (71 FR 77694; 71 FR 77704) for further details. As discussed in these proposed rules, because the southern right whale was already considered a separate species when it was included in the *Eubalaena* spp. listing, we clarify the regulatory text by

listing the southern right whale separately as *E. australis*.

Summary of Comments in Response to the Proposed Rule to List the North Pacific Right Whale

The proposed rule to list the North Pacific right whale as a separate, endangered species (71 FR 77694; December 27, 2006) announced a comment period that closed on February 26, 2007. We have reviewed all comments received during the comment period and incorporated updated data and information into appropriate sections of this rule. We received 10 public comments on the proposed rule to list the North Pacific right whale as a separate, endangered species under the ESA. The majority of the comments supported the proposed action. A summary of the comments received and our response to each are presented below.

Comment 1: The Final Rule should contain any information gathered as a result of the Minerals Management Service (MMS)/NOAA joint collaborative research on North Pacific right whales.

Response: These dedicated research efforts are still ongoing. Additional data are expected from upcoming aerial and shipboard surveys.

Comment 2: One commenter stated that the draft Status Review is inconsistent on the issue of population structure for right whales. It sometimes implies that North Pacific right whales comprise a single population and at other times suggests they consist of separate eastern and western populations. The Marine Mammal Commission also recommended NMFS recognize an eastern and a western North Pacific stock for management purposes, and conduct research to determine if those populations constitute DPSs.

Response: The final Status Review addresses this issue. This review concludes that the generally accepted analyses by Rosenbaum *et al.* (2000) constitute the best available scientific information regarding current taxonomic classification of right whales. Rosenbaum *et al.* (2000) concluded that the right whale should be regarded as three separate species as follows: (1) the North Atlantic right whale (*E. glacialis*), ranging in the North Atlantic Ocean; (2) the North Pacific right whale (*E. japonica*), ranging in the North Pacific Ocean; and (3) the southern right whales (*E. australis*), historically ranging throughout the southern hemisphere's oceans.

The Status Review concludes that historically, right whales ranged throughout the entire North Pacific north of 35° N latitude (Braham and Rice, 1984 Perry *et al.*, 1999). The final Status Review notes that the International Whaling Commission (IWC) considers that the question of whether there are two populations of right whales in the North Pacific remains open. The IWC did note in a review (IWC, 2001a) that the different catch and recovery histories support the view that there ''were once at least two populations, at least with regard to feeding ground divisions'' (see also Perry *et al.*, 1998 and 1999). The final Status Review notes that some researchers (e.g., Klumov, 1962; Brownell *et al.*, 2001) who have discussed the possibility that right whales in the North Pacific exist in discrete eastern and western populations have also suggested that the western group may occur in two different populations. However, at present no subdivision of either population is recognized. The idea that the western population can be further subdivided into two parts (Omura, 1986) is regarded as unlikely, but cannot be ruled out based on existing data (IWC, 2001a).

It is important to note that for purposes of this listing, we recognize all right whales found in the North Pacific Ocean as members of the single species, *E. japonica*, without further subdivision as sub-species or DPSs under the provisions of the ESA.

Comment 3: Several commenters felt NMFS had overstated the concern regarding the problem of right whale interaction with fishing gear. Only one such case is reported which occurred in Russian waters. While there have been two apparent cases of entanglement of bowhead whales by fishing gear, it is questionable to extrapolate from these events because of the rarity of such interactions and the fact that the western arctic population of bowhead whales numbers ten times that of the North Pacific right whale.

Response: The issue of interaction with North Pacific right whales is not well understood. It may be inappropriate to make broad conclusions on this issue from data on bowhead whales, and the known number (one) of known or reported interactions with North Pacific right whales is small. Also, one commenter correctly pointed out that fishing practices differ between Russia and the United States, which may be an important consideration in assessing this issue. The United States has banned drift net fishing in the U.S. Exclusive Economic Zone (EEZ) and has implemented limited entry fishery programs which reduce the numbers of vessels and amount of fishing gear employed in many fisheries. Both actions reduce the possibility for gear interaction.

Comment 4: More protection is needed from ship strikes for North Pacific right whales. This is a very significant problem for North Atlantic right whales. The lack of observed interactions in the North Pacific may be an artifact of the small population size rendering such events inherently infrequent, and the remoteness of their habitat leading to any such interactions going unobserved.

Response: The threat of ship strikes is a very significant issue for right whales in the North Atlantic, but very little evidence suggests that ship strikes are an issue for North Pacific right whales. However, we believe additional research and monitoring is appropriate, and we intend to address the potential for ship strikes in a Recovery Plan for North Pacific right whales. Preparation of a Recovery Plan will follow the listing of this species.

Comment 5: The mere taxonomic reclassification of the right whale should not re-open a process that was completed less than a year ago - especially for a species with an even longer gestation period - with no major ecological changes occurring in the interim.

Response: This action results in the listing of North Pacific right whales as a separate endangered species pursuant to the ESA. We have followed the procedure specified in the ESA for listing this species and designating its critical habitat.

Summary of Comments in Response to the Proposed Rule to List the North Atlantic Right Whale

The proposed rule to list the North Atlantic right whale as a separate, endangered species (71 FR 77704; December 27, 2006) announced a comment period that closed on February 26, 2007. We have reviewed all comments received during the comment period and incorporated updated data and information into appropriate sections of this rule. We received nine public comments on the proposed rule to list the North Atlantic right whale as a separate, endangered species under the ESA. The majority of the comments supported the proposed action. A summary of the comments received and our response to each are presented below.

In addition to soliciting and reviewing public comments, we are required to seek peer review of our listing proposals. On July 1, 1994, NMFS and

USFWS published a series of policies regarding listings under the ESA, including a policy for peer review of proposed listings (59 FR 34270). In accordance with this policy, we solicited the expert opinions of six independent specialists regarding pertinent scientific or commercial data and assumptions relating to the taxonomic, biological, and ecological information on this species. We sent the proposed rule and Status Review to these independent peer reviewers, but received no responses from them.

Comment 6: A commenter opposed the proposed action to list right whales in the northern hemisphere as two separate species under the ESA and petitioned NMFS to list right whales globally as a single species with the common name of black whale.

Response: We reviewed the petition and published a finding (72 FR 29974; May 30 2007) that the petition did not present substantial scientific or commercial information indicating the listing of the global populations of right whales as a single species may be warranted. The best scientific data available supports the determination that right whales found in the northern hemisphere exist as two separate species, the North Atlantic right whale (*E. glacialis*) and the North Pacific right whale (*E. japonica*).

As discussed above and in our proposed rule to list this species as a separate, endangered species, new genetic data now provide unequivocal support to distinguish three right whale lineages as separate phylogenetic species (Rosenbaum *et al.*, 2000). Rosenbaum *et al.* (2000) concluded that the right whale should be classified as three separate species as follows: (1) the North Atlantic right whale (*E. glacialis*), historically ranging in the North Atlantic Ocean from latitudes 60° N to 20° N; (2) the North Pacific right whale (*E. japonica*), historically ranging in the North Pacific Ocean from latitudes 70° N to 20° N; and (3) the southern right whale (*E. australis*), historically ranging throughout the southern hemisphere's oceans.

Comment 7: A commenter noted that while NMFS concludes that habitat loss/degradation is not a factor jeopardizing the continued existence of the North Atlantic right whale, the uptake of pollutants may adversely impact reproduction. The commenter notes that the result of a NMFS workshop on possible causes of reproductive failure in North Atlantic right whales (Reeves *et al.*, 2001) identifies chemical contaminants as one possible explanation for low observed reproduction rates observed in North Atlantic right whales.

Response: The proposed rule to list the North Atlantic right whale as a separate, endangered species (71 FR 77704; December 27, 2006) and the Status Review on which it is based identifies chemical contaminants as a potential source of habitat degradation that might affect North Atlantic right whales. We conclude, however, that there is no evidence indicating that there are contaminant-related impacts on the species. The existing data suggest that, because large baleen whales feed at a lower trophic level compared to the toothed whales (odontocetes), bioaccumulation of contaminants would be lower. The proposed rule and Status Review note that the manner in which pollutants negatively affect animals is complex and difficult to study, particularly in taxa such as large whales. The Status Review concludes that more research is needed to adequately address this issue.

Comment 8: One commenter stated that commercial and recreational whale watching vessels and multiple scientific research permits should not be allowed to adversely affect right whales.

Response: We continue to work actively with the commercial whale watching industry to ensure its compliance with existing regulations governing the approach of vessels within proscribed minimal distance approach standards. Similarly, we continue to work to educate recreational vessel operators about existing regulations we have implemented to prevent harassment of marine mammals due to disturbances that may be caused by the approach and interactions with recreational vessels. Our Office of Law Enforcement works in cooperation with state and private organizations to enforce existing regulations.

We are completing a Draft Environmental Impact Statement (DEIS) under the National Environmental Policy Act (NEPA) that reviews the process for issuing ESA section 10(a)(1)(A) scientific research permits and permit amendments on right whale species in the North Atlantic and North Pacific Oceans. The DEIS reviews several alternatives for a more ''programmatic'' approach that would allow us to better analyze the potential collective environmental impact of research and other activities on right whales. The DEIS reviews and analyzes the effects of all research activities that have been conducted on right whales in the proposed action area in the past 5 years and also recommends several alternatives that would have specific 'take' targets for the next 5 years based on that analysis. This approach is intended to reduce takes of right whales due to research activities.

In addition, we are considering proposing changes to our implementing regulations and criteria governing the issuance of permits for scientific research and enhancement activities under section 104 of the Marine Mammal Protection Act (MMPA)(72 FR 52339; September 13, 2007).

Comment 9: One commenter stated that NMFS has failed to adequately protect right whales and that to date there has been inadequate action undertaken to prevent mortalities and serious injuries affecting the species. The commenter notes that it is currently engaged in ongoing litigation against NMFS related to ship strikes and entanglement in commercial fishing gear.

Response: The issue raised by the commenter is not germane to this action to list North Atlantic and North Pacific right whales a separate, endangered species under the ESA. Nonetheless, the proposed rule notes and discusses the numerous ongoing and existing regulatory and conservation measures in place to reduce the impact of ship strikes on the survival and recovery of the species. These efforts involve Federal, state, and local agencies, as well as conservation, academic, and industry organizations (71 FR 77704; December 27, 2007, at 77709). As required by the ESA, we have reviewed the factors listed under section 4(a)(1), including the adequacy of existing regulatory mechanisms. Based on this review, we have concluded that, while regulatory mechanisms have provided increased protection to right whales in the North Atlantic, human activities still result in serious injuries and mortalities of right whales. The inadequacy of existing regulatory mechanisms is a factor that places the North Atlantic right whale in danger of extinction throughout its range.

Based on this determination, we have concluded that, despite previous efforts, ship strikes and fishing gear interactions remain a serious factor negatively affecting the continued survival and recovery of the species. New conservation measures are being developed and implemented with the intent of reducing the threat and frequency of ship strikes and fishing gear interactions with right whales. These measures will continue to be monitored to assess their effectiveness in reducing the impact of these factors on the survival of the species.

Comment 10: A commenter stated that the literature used in the proposed rule is dated. The commenter noted that ship

strike citations are only through 1999, though there are more recent data. The commenter cited Kraus *et al.* (2005), stating that this reference contains more recent information on likely rates of detected and undetected death from both ship strikes and gear entanglement.

Response: Deaths from collisions with ships and entanglement in fishing gear are significant impediments to the recovery of the species. The proposed rule and Status Review correctly note ship strikes as one of the greatest known causes of deaths of North Atlantic right whales. While the commenter notes that at least one of our literature citations related to ship strike mortalities seems dated, the proposed rule and Status Review on which it was based provide and consider additional current and up-to-date ship strike information. The more recent scientific reference cited by the commenter provides supportive data that are consistent with the determination that ship strikes represent a significant threat to the North Atlantic right whale.

The proposed rule and Status Review conclude that the most significant factor placing the North Atlantic right whale in danger of extinction remains human-related mortality, most notably, ship collisions and entanglement in fishing gear. The available evidence strongly suggests that the western population of North Atlantic right whale cannot sustain the number of deaths that result from vessel and fishing gear interactions. The actual number of deaths is almost certainly higher than those documented, as some deaths go undetected or unreported, and in many cases it is not possible to determine the cause of death from recovered carcasses. The proposed rule and Status Review conclude that it may be necessary to enhance existing regulations, or promulgate new regulations, to reduce or eliminate the threat of ship strikes and fishing gear entanglement. The citation proffered by the commenter supports and reinforces our conclusion about the threat posed to the species by ship strikes.

Comment 11: A commenter raised a number of issues related to the potential impact of several broad categories of activities undertaken by the U.S. Department of Defense (DoD). These comments include the following related issues: (1) The proposed rule does not consider the risk posed to right whales by DoD activities proposed in and around right whales migratory routes in the mid-Atlantic; (2) right whales that died concurrently with naval exercises off Florida in the 1990s are not discussed; (3) possible impacts from Naval ordnance activities near critical habitat in the southeast and northeast are not discussed; and (4) the recent decision by the DoD to exempt its activities from compliance with the mandates of the MMPA is not discussed.

Response: Any impact on right whales from DoD activities does not change our determination that the North Atlantic right whale should be listed as a separate, endangered species. As noted in the proposed rule (71 FR 77704; December 27, 2006, at 77714), section 7(a)(2) of the ESA requires that all Federal agencies ensure that any action they authorize, fund, or carry out is not likely to jeopardize the continued existence of endangered or threatened species or destroy or adversely modify designated critical habitat. These agencies must consult with NMFS on any action that may affect listed species or critical habitat for species under the agency's jurisdiction (including right whales). As a result of these consultations, we issue either a letter of concurrence that the activity is not likely to adversely affect a species or critical habitat, or a Biological Opinion (BO) for activities likely to adversely affect a species or critical habitat. A BO evaluates whether the activity is likely to jeopardize the continued existence of the species or result in the destruction or adverse modification of critical habitat and, if so, provides reasonable and prudent alternatives to the activity. In those cases where we conclude that an action (or implementation of any reasonable and prudent alternatives) and the resultant incidental take of listed species is not likely to jeopardize the continued existence of listed species, we specify reasonable and prudent measures necessary and appropriate to minimize effects of the action on the species of concern. We have consulted under section 7(a)(2) of the ESA with a number of Federal agencies, including the U.S. Navy, on several occasions for a variety of activities, including those identified by the commenter.

North Pacific Right Whale (*Eubalaena japonica*)

Extinction Risk Assessment for the North Pacific Right Whale (Eubalaena japonica)

To date, the largest number of North Pacific right whale individuals identified in the eastern Bering Sea is 23 (based on genetic sampling), while abundance in the western North Pacific appears to number fewer than 1,000 individuals (with a minimum estimate near 400). Abundance estimates and other vital rate indices in both the eastern and western North Pacific are not well established. Where such estimates exist, they have very wide confidence limits. We find the continued anthropogenic threats and other factors discussed below demonstrate a high risk of extinction for the North Pacific right whale throughout its range, into the foreseeable future.

The basic life history parameters and survey data, including population abundance, growth rate, age structure, breeding ages, and distribution, remain undetermined for North Pacific right whale. While these data are necessary to perform quantitative population analyses or to develop surrogate models to evaluate the risk of extinction, there are a number of factors that put North Pacific right whales at considerable risk of extinction. These include, but are not limited to, the following: (1) Life history characteristics such as slow growth rate, long calving intervals, and longevity; (2) strong depensatory or Allee effects; (3) distorted age, size or structure of the population, and reduced reproductive success; (4) habitat specificity or site fidelity; and (5) habitat sensitivity. Please see the Proposed Rule (71 FR 77694; December 27, 2006) for a complete discussion of these issues.

Summary of Factors Affecting the North Pacific Right Whale (Eubalaena japonica)

Section 4(a)(1) of the ESA and the listing regulations (50 CFR part 424) set forth procedures for listing species. We must determine, through the regulatory process, if a species is endangered or threatened because of any one or a combination of the following factors: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) over-utilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or manmade factors affecting its continued existence. A discussion of each of these considerations is presented in the Proposed Rule (71 FR 77694; December 27, 2006). In that discussion and analysis, we determined the North Pacific right whale was endangered primarily because of the effects of commercial and illegal whaling decimated this species and continue to account for its status. Please see the Proposed Rule for a complete discussion of this analysis.

Conservation Efforts for the North Pacific Right Whale (Eubalaena japonica)

When considering the listing of a species, section 4 (b)(1)(A) of the ESA

requires consideration of any efforts by any State, foreign nation, or political subdivision of a State or foreign nation to protect such species. The Proposed Rule (71 FR 77694; December 27, 2006) considered this, and determined that there are no current conservation efforts in place at this time specifically targeted towards the North Pacific right whale in the North Pacific Ocean. Please see the Proposed Rule for a complete discussion of this issue.

Listing Determination for the North Pacific Right Whale (Eubalaena japonica)

We have reviewed the status of the North Pacific right whale, considered the factors set forth in section 4 (a)(1) of the ESA, and taken into account any conservation efforts to protect the species. We conclude that the North Pacific right whale should be listed as an endangered species under the ESA because it is in danger of extinction throughout all of its range because of (1) overutilization for commercial, recreational, scientific or educational purposes (see above for a description of these section 4 (a)(1) factors). This endangered determination is also supported by the fact that the factors confounding recovery have not been thoroughly identified and may continue to persist until more is known.

We also conclude that, at present, no protective or conservation measures are in place that substantially mitigate the factors affecting the future viability of this species. Based on the best available information, we list the North Pacific right whale under the ESA as an endangered species.

North Atlantic Right Whale (*Eubalaena glacialis***)**

Extinction Risk Assessment for the North Atlantic Right Whale (Eubalaena glacialis)

Sighting surveys from the eastern Atlantic Ocean suggest that right whales present in this region are rare (Best *et al.*, 2001). Abundance estimates for the western North Atlantic stock remained relatively stable during the 1990s (1992 - 295 individuals; 1996 263 individuals; 1998 - 299 individuals). However, no estimate of abundance with an associated coefficient of variation has been calculated for this population. All population growth models indicated a decline in right whale survival in the 1990s relative to the 1980s with female survival, in particular, apparently affected (Best *et al.*, 2001; Waring *et al.*, 2002). An analysis of the age structure of this population suggests that it contains a smaller proportion of juvenile whales than expected (Hamilton *et al.*, 1998; Best *et al.*, 2001), which may reflect low recruitment and/or high juvenile mortality. In addition, it is possible that the apparently low reproductive rate is due in part to unstable age structure or to decreased reproduction due to aging (i.e., reproductive senescence) on the part of some females (Waring *et al.*, 2004). The size of the western North Atlantic stock is likely reduced significantly from historic levels, and this may have resulted in a loss of genetic diversity that could affect the ability of the current population to successfully reproduce (e.g., decreased conceptions, increased abortions, increased neonate mortality). Despite uncertainties in abundance and trend estimates, we find the continued anthropogenic threats and other factors discussed below demonstrate a high risk of extinction for the North Atlantic right whale throughout its range, into the foreseeable future.

As with the North Pacific right whale, there are a number of factors that put North Atlantic right whales at considerable risk of extinction. These include, but are not limited to, the following: (1) Life history characteristics such as slow growth rate, long calving intervals, and longevity; (2) strong depensatory or Allee effects; (3) distorted age, size, or structure of the population, and reduced reproductive success; (4) habitat specificity or site fidelity; and (5) habitat sensitivity. Please see the Proposed Rule (71 FR 77694; December 27, 2006) for a complete discussion of these issues.

Summary of Factors Affecting the North Atlantic Right Whale (Eubalaena glacialis)

Section 4(a)(1) of the ESA and the listing regulations (50 CFR part 424) set forth procedures for listing species. We must determine, through the regulatory process, if a species is endangered or threatened because of any one or a combination of the following factors: (1) the present or threatened destruction, modification, or curtailment of its habitat or range; (2) over-utilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; and (5) other natural or manmade factors affecting its continued existence. A discussion of each of these considerations is presented in the Proposed Rule (71 FR 77704; December 27, 2006). In that discussion and analysis, we determined the North Atlantic right whale was endangered because of: (1) overutilization for commercial, recreational scientific, or educational purposes; (2) the inadequacy of existing regulatory mechanisms; and (3) other natural and manmade factors affecting it continued existence. Please see the Proposed Rule for a complete discussion of this analysis.

Conservation Efforts for the North Atlantic Right Whale (Eubalaena glacialis)

When considering the listing of a species, section 4 (b)(1)(A) of the ESA requires consideration of any efforts by any State, foreign nation, or political subdivision of a State or foreign nation to protect such species. Right whales have been listed under the ESA for many years and numerous conservation measures have been implemented in order to protect and conserve the species. For a complete discussion of these measures, both current and past, see the proposed rule to list North Atlantic right whale as a separate, endangered species under the ESA (71 FR 77704; December 27, 2006) or the Review of the Status of Right Whales in the North Atlantic and North Pacific Oceans.

Listing Determination for the North Atlantic Right Whale (Eubalaena glacialis)

We have concluded, based on an analysis of the best scientific and commercial data available, that listing the North Atlantic right whale as a separate, endangered species (*Eubalaena glacialis*) under the ESA is warranted. Based on an analysis of the best scientific and commercial data available and after taking into consideration current population trends and abundance, demographic risk factors affecting the continued survival of the species, and ongoing conservation efforts, we have determined that the North Atlantic right whale is in danger of extinction throughout its range because of: (1) overutilization for commercial, recreational scientific, or educational purposes; (2) the inadequacy of existing regulatory mechanisms; and (3) other natural and manmade factors affecting its continued existence. Because the right whale is a long-lived species, extinction may not occur in the immediate future, but the possibility of biological extinction in the next century is very real. This endangered determination is also supported by the fact that the factors confounding recovery have not been thoroughly identified and may continue to persist until more is known. We also conclude that, at present, no protective or conservation measures are in place that substantially mitigate the factors

affecting the future viability of this species. Based on the best available information, we list the North Atlantic right whale under the ESA as an endangered species.

Prohibitions and Protective Measures

Section 9 of the ESA prohibits certain activities that directly or indirectly affect endangered species. These prohibitions apply to all individuals, organizations, and agencies subject to U.S. jurisdiction.

Sections 7(a)(2) of the ESA requires Federal agencies to consult with us to ensure that activities they authorize, fund, or conduct are not likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with NMFS. Examples of Federal actions that may affect the North Pacific and North Atlantic right whales include coastal development, oil and gas development, seismic exploration, point and non-point source discharge of contaminants, contaminated waste disposal, water quality standards, activities that involve the release of chemical contaminant and/or noise, vessel operations, research, and fishery management practices.

Sections 10(a)(1)(A) and (B) of the ESA authorize NMFS to grant exceptions to the ESA's Section 9 ''take'' prohibitions. Section 10(a)(1)(A) scientific research and enhancement permits may be issued to entities (Federal and non-federal) for scientific purposes or to enhance the propagation or survival of a listed species. The types of activities potentially requiring a section 10(a)(1)(A) research/enhancement permit include scientific research that targets North Pacific and North Atlantic right whales. Under section 10(a)(1)(B), the Secretary may permit takings otherwise prohibited by section 9(a)(1)(B) if such taking is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity.

NMFS Policies on Endangered and Threatened Fish and Wildlife

On July 1, 1994, we and FWS published a series of policies regarding listings under the ESA, including a policy for peer review of scientific data (59 FR 34270) and a policy to identify, to the maximum extent possible, those activities that would or would not constitute a violation of section 9 of the ESA (59 FR 34272).

Role of Peer Review

The intent of the peer review policy is to ensure that listings are based on the best scientific and commercial data available. As noted above (see introductory language in Summary of Comments in Response to the Proposed Rule to List the North Atlantic Right Whale), we solicited the expert opinions and review of six independent, qualified specialists, concurrent with the public comment period. The Status Review, which was the basis for the proposed rules to list North Pacific and North Atlantic right whales as separate, endangered species, discussed both the North Pacific and North Atlantic right whales.

Identification of Those Activities That Would Constitute a Violation of Section 9 of the ESA

The intent of this policy is to increase public awareness of the effect of our ESA listing on proposed and ongoing activities within the species' range. We identify, to the extent known, specific activities that will be considered likely to result in violation of section 9, as well as activities that will not be considered likely to result in violation. Activities that we believe could result in violation of section 9 prohibitions against ''take'' of the North Pacific right whale or North Atlantic right whale include, but are not limited to, the following: (1) Operating vessels in a manner that results in ship strikes or disrupts foraging, resting, or care for young or results in noise levels that disrupt foraging, communication, resting, or care for young; (2) fishing practices that result in entanglement when lines, nets, or other gear are placed in the water column; (3) coastal development that adversely affects right whales (e.g., dredging, waste treatment); (4) discharging or dumping toxic chemicals or other pollutants into areas used by North Pacific or North Atlantic right whales; (5) scientific research activities; and (6) land/water use or fishing practices that result in reduced availability of prey species during periods when North Pacific or North Atlantic right whales are present.

We believe, based on the best available information, the following actions will not result in a violation of Section 9: (1) federally funded or approved projects for which ESA section 7 consultation has been completed, and that are conducted in accordance with any terms and conditions we provide in an incidental take statement accompanying a biological opinion; and (2) takes of North Pacific or North Atlantic right whales that have been authorized by NMFS pursuant to section 10 of the ESA.

These lists are not exhaustive. They are intended to provide some examples of the types of activities that we might or might not consider as constituting a take of North Pacific or North Atlantic right whales.

Classification

National Environmental Policy Act (NEPA)

ESA listing decisions are exempt from the requirement to prepare an environmental assessment or environmental impact statement under the NEPA. See NOAA Administrative Order 216–6.03(e)(1) and *Pacific Legal Foundation* v. *Andrus*, 657 F.2d 825 (6th Cir. 1981). Thus, we have determined that the final listing determinations for North Pacific and North Atlantic right whales described in this notice are exempt from the requirements of the NEPA.

Regulatory Flexibility Act (RFA)

As noted in the Conference Report on the 1982 amendments to the ESA, economic impacts cannot be considered when assessing the status of a species. Therefore, the economic analysis requirements of the RFA are not applicable to the listing process.

Regulatory Planning and Review – Executive Order (E.O.) 12866

This final rule to list North Pacific and North Atlantic right whales as two separate, endangered species is exempt from review under E. O. 12866.

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

This final rule does not contain new or revised information collection for which OMB approval is required under the Paperwork Reduction Act. This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Federalism

E.O. 13132 requires agencies to take into account any federalism impacts of regulations under development. It includes specific consultation directives for situations where a regulation will preempt state law, or impose substantial direct compliance costs on state and local governments (unless required by statute). Neither of these circumstances is applicable to these final listing

determinations. In keeping with the intent of the Administration and Congress to provide continuing and meaningful dialogue on issues of mutual State and Federal interest, we provided the proposed rules to the relevant state agencies in each state in which the North Pacific right whale and the North Atlantic right whale is believed to occur, and these state agencies were invited to comment.

Government-to-Government Relationship With Tribes - E.O. 13175

The longstanding and distinctive relationship between the Federal and tribal governments is defined by treaties, statutes, executive orders, judicial decisions, and agreements, which differentiate tribal governments from the other entities that deal with, or are affected by, the Federal Government. This relationship has given rise to a special Federal trust responsibility involving the legal responsibilities and obligations of the United States toward Indian Tribes and the application of fiduciary standards of due care with respect to Indian lands, tribal trust resources, and the exercise of tribal rights. E.O. 13175 - Consultation and Coordination with Indian Tribal Governments- outlines the responsibilities of the Federal Government in matters affecting tribal interests.

We have determined the listing of the North Pacific and North Atlantic right whale will not have tribal implications, nor affect any tribal governments or issues. The North Pacific right whale is not hunted by Native Americans for traditional use or subsistence purposes.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act, we make the following findings:

(a) This final rule listing the North Pacific right whale and North Atlantic right whale as endangered will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, tribal governments, or the private sector and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or tribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and tribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding'' and the State, local, or tribal governments ''lack authority'' to adjust accordingly. (At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement.) ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (I) a condition of Federal assistance; or (ii) a duty arising from participation in a voluntary Federal program.''

ESA listing does not impose a legally binding duty on non-Federal government entities or private parties. Under the ESA, the only regulatory effect is that Federal agencies must ensure that their actions do not jeopardize the continued existence of the species. While non-Federal entities who receive Federal funding, assistance, permits or otherwise require approval or authorization from a Federal agency for an action may be indirectly impacted by the ESA listings, the legal duty to avoid jeopardy is borne by the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply; nor would the listing shift the costs of the large entitlement programs listed above to State governments.

(b) Due to the prohibition against take of this species both within and outside of the designated areas, we do not anticipate that this final rule will significantly or uniquely affect small governments. As such, a Small Government Agency Plan is not required.

Civil Justice Reform

In accordance with E.O. 12988, the Department of Commerce has determined that this final rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the E.O.

References Cited

A complete list of all references cited in this rulemaking is available upon request from the NMFS (see **ADDRESSES**).

List of Subjects in 50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Dated: February 29, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

■ For the reasons set out in the preamble, we amend 50 CFR part 224 as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 2. Revise § 224.101(b) to read as follows:

§ 224.101 Enumeration of endangered marine and anadromous species.

* * * * *

(b) *Marine mammals.* Blue whale (*Balaenoptera musculus*); Bowhead whale (*Balaena mysticetus*); Caribbean monk seal (*Monachus tropicalis*); Chinese river dolphin (*Lipotes vexillifer*); Cochito (*Phocoena sinus*); Fin or finback whale (*Balaenoptera physalus*); Hawaiian monk seal (*Monachus schauinslandi*); Humpback whale (*Megaptera novaeangliae*); Indus River dolphin (*Platanista minor*); Mediterranean monk seal (*Monachus monachus*); North Atlantic right whale (Eubalaena glacialis); North Pacific right whale (Eubalaena japonica); Southern right whale (*Eubalaena australis*); Saimaa seal (*Phoca hispida saimensis*); Sei whale (*Balaenoptera borealis*); Sperm whale (*Physeter catodon*); Western North Pacific (Korean) gray whale (*Eschrichtius robustus*); Steller sea lion, western population, (*Eumetopias jubatus*), which consists of Steller sea lions from breeding colonies located west of 144° W. longitude.

* * * * *

[FR Doc. E8–4376 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 071106671–8010–02]

RIN 0648–XG08

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

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

ACTION: Temporary rule; modification of a closure.

SUMMARY: NMFS is opening directed fishing for pollock in Statistical Area 610 of the Gulf of Alaska (GOA) for 24 hours. This action is necessary to fully use the A season allowance of the 2008 total allowable catch (TAC) of pollock specified for Statistical Area 610 of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), March 3, 2008, through 1200 hrs, A.l.t., March 4, 2008. Comments must be received at the following address no later than 4:30 p.m., A.l.t., March 18, 2008.

ADDRESSES: Send comments to Sue Salveson, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region, NMFS, Attn: Ellen Sebastian. You may submit comments, identified by 0648–XG08, by any one of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal eRulemaking Portal website at *http://www.regulations.gov*;
- Mail: P.O. Box 21668, Juneau, AK 99802;
- Fax: (907) 586–7557; or
- Hand delivery to the Federal Building: 709 West 9th Street, Room 420A, Juneau, AK.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.regulations.gov* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

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

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

NMFS closed the directed fishery for pollock in Statistical Area 610 of the GOA under § 679.20(d)(1)(iii) on January 22, 2008 (73 FR 4493, January 25, 2008).

NMFS has determined that approximately 3,200 mt of pollock remain in the directed fishing allowance. Therefore, in accordance with § 679.25(a)(1)(i), (a)(2)(i)(C), and (a)(2)(iii)(D), and to fully utilize the A season allowance of the 2008 TAC of pollock in Statistical Area 610, NMFS is terminating the previous closure and is reopening directed fishing for pollock in Statistical Area 610 of the GOA. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will be reached after 24 hours. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA effective 1200 hrs, A.l.t., March 4, 2008.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the opening of pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 28, 2008.

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

Without this inseason adjustment, NMFS could not allow the fishery for pollock in Statistical Area 610 of the GOA to be harvested in an expedient manner and in accordance with the regulatory schedule. Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until March 18, 2008.

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

Authority: 16 U.S.C. 1801 *et seq.*

Dated: February 29, 2008.

James P. Burgess

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 08–972 Filed 3–3–08; 2:37 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 45
Thursday, March 6, 2008

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2008–0262; Directorate Identifier 2008–NM–021–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.

The assessment showed that it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion * * *.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by April 7, 2008.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: James Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7321; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2008–0262; Directorate Identifier 2008–NM–021–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2007–35, dated December 21, 2007 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.

The assessment showed that it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. Revision has been made to Canadair Regional Jet Model CL–600–2B19 Maintenance Requirements Manual, CSP A–053, Part 2, Appendix D, ''Fuel System Limitations'' to introduce the required CDCCL.

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to include the CDCCL data. You may obtain further information by examining the MCAI in the AD docket.

The FAA has examined the underlying safety issues involved in fuel tank explosions on several large transport airplanes, including the adequacy of existing regulations, the service history of airplanes subject to those regulations, and existing maintenance practices for fuel tank systems. As a result of those findings, we issued a regulation titled ''Transport Airplane Fuel Tank System Design Review, Flammability Reduction and Maintenance and Inspection Requirements'' (66 FR 23086, May 7, 2001). In addition to new airworthiness standards for transport airplanes and new maintenance requirements, this rule included Special Federal Aviation Regulation No. 88 (''SFAR 88,''

Amendment 21–78, and subsequent Amendments 21–82 and 21–83).

Among other actions, SFAR 88 requires certain type design (i.e., type certificate (TC) and supplemental type certificate (STC)) holders to substantiate that their fuel tank systems can prevent ignition sources in the fuel tanks. This requirement applies to type design holders for large turbine-powered transport airplanes and for subsequent modifications to those airplanes. It requires them to perform design reviews and to develop design changes and maintenance procedures if their designs do not meet the new fuel tank safety standards. As explained in the preamble to the rule, we intended to adopt airworthiness directives to mandate any changes found necessary to address unsafe conditions identified as a result of these reviews.

In evaluating these design reviews, we have established four criteria intended to define the unsafe conditions associated with fuel tank systems that require corrective actions. The percentage of operating time during which fuel tanks are exposed to flammable conditions is one of these criteria. The other three criteria address the failure types under evaluation: single failures, single failures in combination with a latent condition(s), and in-service failure experience. For all four criteria, the evaluations included consideration of previous actions taken that may mitigate the need for further action.

We have determined that the actions identified in this AD are necessary to reduce the potential of ignition sources inside fuel tanks, which, in combination with flammable fuel vapors, could result in fuel tank explosions and consequent loss of the airplane.

Relevant Service Information

Bombardier has issued Temporary Revision 2D–2, dated March 31, 2006, to Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of the Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053.

The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

This proposed AD would allow revising the ALS of the Instructions for Continued Airworthiness in accordance with later revisions of the maintenance requirements manual (MRM) as an acceptable method of compliance if the CDCCL is part of a later approved MRM revision, or if the CDCCL is approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this proposed AD.

In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this proposed AD, we are using this same compliance date in this proposed AD.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 700 products of U.S. registry. We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed AD on U.S. operators to be $56,000, or $80 per product.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

Bombardier, Inc. (Formerly Canadair):
Docket No. FAA–2008–0262; Directorate Identifier 2008–NM–021–AD.

Comments Due Date

(a) We must receive comments by April 7, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Bombardier Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, all serial numbers.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Bombardier Aerospace has completed a system safety review of the aircraft fuel system against fuel tank safety standards introduced in Chapter 525 of the Airworthiness Manual through Notice of Proposed Amendment (NPA) 2002–043. The identified non-compliances were then assessed using Transport Canada Policy Letter No. 525–001, to determine if mandatory corrective action is required.

The assessment showed that it is necessary to introduce Critical Design Configuration Control Limitations (CDCCL), in order to preserve critical fuel tank system ignition source prevention features during configuration changes such as modifications and repairs, or during maintenance actions. Failure to preserve critical fuel tank system ignition source prevention features could result in a fuel tank explosion. Revision has been made to Canadair Regional Jet Model CL–600–2B19 Maintenance Requirements Manual, CSP A–053, Part 2, Appendix D, ''Fuel System Limitations'' to introduce the required CDCCL.

The corrective action is revising the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to include the CDCCL data.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Within 60 days after the effective date of this AD, or before December 16, 2008, whichever occurs first, revise the ALS of the Instructions for Continued Airworthiness to include the CDCCLs specified in Bombardier Temporary Revision (TR) 2D–2, dated March 31, 2006, to Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of the Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053.

Note 1: The revision required by paragraph (f)(1) of this AD may be done by inserting a copy of the applicable TR into the applicable maintenance requirements manual. When the TR has been included in the general revision of the maintenance program, the general revision may be inserted into the maintenance requirements manual, provided the relevant information in the general revision is identical to that in the applicable TR, and the temporary revision may be removed.

(2) After accomplishing the action specified in paragraph (f)(1) of this AD, no alternative CDCCLs may be used unless the CDCCLs are part of a later revision of Appendix D, ''Fuel System Limitations,'' of Part 2, ''Airworthiness Requirements,'' of Bombardier CL–600–2B19 Maintenance Requirements Manual CSP A–053, Revision 7, dated May 10, 2007, that is approved by the Manager, New York Aircraft Certification Office (ACO), FAA, or Transport Canada Civil Aviation (TCCA) (or its delegated agent); or unless the CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: James Delisio, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7321; fax (516) 794–5531. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI Canadian Airworthiness Directive CF–2007–35, dated December 21, 2007, and Bombardier Temporary Revision 2D–2, dated March 31, 2006, for related information.

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4322 Filed 3–5–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–29248; Directorate Identifier 2007–NM–155–AD]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB-Fairchild SF340A (SAAB/SF340A) and SAAB 340B Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM); reopening of comment period.

SUMMARY: We are revising an earlier NPRM for the products listed above. This action revises the earlier NPRM by expanding the scope. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, * * * Special Federal Aviation Regulation 88 (SFAR88) * * * required a safety review of the aircraft Fuel Tank System * * *.

* * * * *

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an ''unsafe condition'' * * *. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by March 26, 2008.

ADDRESSES: You may send comments by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* (202) 493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–40, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov*; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2677; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–29248; Directorate Identifier 2007–NM–155–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

We proposed to amend 14 CFR part 39 with an earlier NPRM for the specified products, which was published in the **Federal Register** on September 19, 2007 (72 FR 53501). The earlier NPRM proposed to require actions intended to address the unsafe condition for the products listed above.

Since that NPRM was issued, we have determined that the compliance times specified in paragraphs (f)(1) and (f)(2) of the earlier NPRM must be revised. In most ADs, we adopt a compliance time allowing a specified amount of time after the AD's effective date. In this case, however, the FAA has already issued regulations that require operators to revise their maintenance/inspection programs to address fuel tank safety issues. The compliance date for these regulations is December 16, 2008. To provide for coordinated implementation of these regulations and this supplemental NPRM, we are including this same compliance date in paragraphs (f)(1) and (f)(2) of this supplemental NPRM.

In addition, we have standardized our approach to a series of similar ADs; therefore, we have revised paragraph (f)(3) of this supplemental NPRM to specify that no alternative inspections, inspection intervals, or CDCCLs may be used unless they are part of a later approved revision of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, or unless they are approved as an alternative method of compliance (AMOC). Inclusion of this paragraph in the AD is intended to ensure that the AD-mandated airworthiness limitations changes are treated the same as the airworthiness limitations issued with the original type certificate.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the original NPRM or on the determination of the cost to the public.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

The change to paragraph (f)(2) of this supplemental NPRM, described above, expands the scope of the original NPRM. As a result, we have determined that it is necessary to reopen the comment period to provide additional opportunity for the public to comment on this proposed AD.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are highlighted in a Note within the proposed AD.

Costs of Compliance

We estimate that this proposed AD will affect about 144 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of this proposed AD to the U.S. operators to be $11,520, or $80 per product.

Authority for This Rulemaking

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

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and

3. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by adding the following new AD:

SAAB Aircraft AB: Docket No. FAA–2007–29248; Directorate Identifier 2007–NM–155–AD.

Comments Due Date

(a) We must receive comments by March 26, 2008.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all Saab Model SAAB-Fairchild SF340A (SAAB/SF340A) and SAAB 340B airplanes, certificated in any category, all serial numbers.

Note 1: This AD requires revisions to certain operator maintenance documents to include new inspections. Compliance with these inspections is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by these inspections, the operator may not be able to accomplish the inspections described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (g)(1) of this AD. The request should include a description of changes to the required inspections that will ensure the continued operational safety of the airplane.

Subject

(d) Air Transport Association (ATA) of America Code 28: Fuel.

Reason

(e) The mandatory continuing airworthiness information (MCAI) states:

Subsequent to accidents involving Fuel Tank System explosions in flight * * * and on ground, the FAA published Special Federal Aviation Regulation 88 (SFAR 88) in June 2001. SFAR 88 required a safety review of the aircraft Fuel Tank System to determine that the design meets the requirements of FAR (Federal Aviation Regulation) § 25.901 and § 25.981(a) and (b).

A similar regulation has been recommended by the JAA (Joint Aviation Authorities) to the European National Aviation Authorities (National Aviation Authorities) in JAA letter 04/00/02/07/03–L024 of 3 February 2003. The review was requested to be mandated by NAA's using JAR (Joint Aviation Regulation) § 25.901(c), § 25.1309.

In August 2005 EASA published a policy statement on the process for developing instructions for maintenance and inspection of Fuel Tank System ignition source prevention (EASA D 2005/CPRO, *http://www.easa.eu.int/home/cert_policy_statements_en.html*) that also included the EASA expectations with regard to compliance times of the corrective actions on the unsafe and the not unsafe part of the harmonised design review results. On a global scale the TC (type certificate) holders committed themselves to the EASA published compliance dates (see EASA policy statement). The EASA policy statement has been revised in March 2006: The date of 31–12–2005 for the unsafe related actions has now been set at 01–07–2006.

Fuel Airworthiness Limitations are items arising from a systems safety analysis that have been shown to have failure mode(s) associated with an 'unsafe condition' as defined in FAA's memo 2003–112–15 'SFAR 88—Mandatory Action Decision Criteria'. These are identified in Failure Conditions for which an unacceptable probability of ignition risk could exist if specific tasks and/or practices are not performed in accordance with the manufacturers' requirements.

This EASA Airworthiness Directive mandates the Fuel System Airworthiness Limitations (comprising maintenance/inspection tasks and Critical Design Configuration Control Limitations (CDCCL)) for the type of aircraft, that resulted from the design reviews and the JAA recommendation and EASA policy statement mentioned above.

The corrective action is revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate new limitations for fuel tank systems.

Actions and Compliance

(f) Unless already done, do the following actions.

(1) Before December 16, 2008, or within 3 months after the effective date of this AD, whichever occurs earlier, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness to incorporate the maintenance and inspection instructions in Part 1 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006. For all tasks identified in Part 1 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, the initial compliance times start from the effective date of this AD, and the repetitive inspections must be accomplished thereafter at the interval specified in Part 1 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006; except as provided by paragraphs (f)(3) and (g) of this AD.

(2) Before December 16, 2008, revise the ALS of the Instructions for Continued Airworthiness to incorporate the CDCCLs as defined in Part 2 of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006.

(3) After accomplishing the actions specified in paragraphs (f)(1) and (f)(2) of this AD, no alternative inspection, inspection intervals, or CDCCLs may be used unless the inspections, intervals, or CDCCLs are part of a later revision of Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, that is approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, or the European Aviation Safety Agency (EASA) (or its delegated agent); or unless the inspections, intervals, or CDCCLs are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (g)(1) of this AD.

(4) Where Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006, allows for exceptional short-term extensions, an exception is acceptable to the FAA if it is approved by the appropriate principal inspector in the FAA Flight Standards Certificate Holding District Office.

FAA AD Differences

Note 2: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(g) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Borfitz, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–2677; fax (425) 227–1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(h) Refer to MCAI EASA Airworthiness Directive 2006–0221, dated July 20, 2006;

and Saab 340 Fuel Airworthiness Limitations Document 340 LKS 009033, dated February 14, 2006; for related information.

Issued in Renton, Washington, on February 28, 2008.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E8–4326 Filed 3–5–08; 8:45 am]

BILLING CODE 4910–13–P

RAILROAD RETIREMENT BOARD

20 CFR Part 295

RIN 3220–AB61

Payments Pursuant to Court Decree or Court-approved Property Settlement

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board (Board) proposes to amend its regulations concerning partition of annuities pursuant to a court decree or court-approved property settlement in order to incorporate provisions of the Pension Protection Act of 2006, to make corrections in the existing regulation, and to update the regulation to reflect changes in titles within the agency.

DATES: Submit comments on or before May 5, 2008.

ADDRESSES: Address any comments concerning this proposed rule to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092.

FOR FURTHER INFORMATION CONTACT: Marguerite P. Dadabo, Assistant General Counsel, (312) 751–4945, TTD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Retirement and disability annuities under the Railroad Retirement Act are composed of independently calculated segments known as tiers. The tier I amount combines both railroad and non-railroad earnings, and is calculated using social security benefit formulas. The tier II amount is calculated under different formulas, generally representing railroad earnings alone. In addition, some annuitants receive a dual benefit component based on non-railroad wages earned through December 1974, or in some cases, through an earlier date. Finally, career railroad employees may receive a supplemental annuity ranging from $23 to $43 per month.

Under section 14(b) of the Railroad Retirement Act, the non-tier I portion of a railroad retirement annuity may be characterized as property subject to partition in a proceeding for divorce, annulment, or legal separation. Prior to August 17, 2007, the effective date of the Pension Protection Act of 2006, Public Law 109–280, a partition payment would terminate upon the death of either the railroad employee or the former spouse, which ever occurred first, unless the court order provided for termination at an earlier date. Section 1003 of Public Law 109–280 amended the Railroad Retirement Act to provide that a partition payment will only terminate upon the employee's death when the court order requires such termination. Consequently, unless the court order requires termination of payments upon the employee's death, tier II partition payments to divorced spouses may now continue beyond the employee's death. While the change in law does not allow for the reinstatement of payments terminated prior to August 17, 2007, due to the death of the employee prior to that date, the change does mean that any divorced spouse who was getting a partition payment as of that date may continue to be paid a tier II partition amount.

The Board proposes to amend Part 295 of its regulations to reflect the changes made by Public Law 109–280, to reflect changes in certain titles of agency employees, and to correct or clarify certain references. Specifically, the Board amends section 295.1, which explains the purpose of Part 295, to incorporate a reference to Public Law 109–280. Section 295.1(b)(3) is modified to clarify references to certain annuity increases under section 3(f) of the Railroad Retirement Act.

Section 295.2 is amended to include a separate new definition of former spouse and a revised separate definition of spouse.

Section 295.4(a) is amended by the addition of a new subparagraph (4) to specify that unless a court order expressly provides otherwise, a partition order will be applied to any annuity paid to an employee, whether the employee has retired based on age or based on disability.

The phrase ''pertaining to the employee'' is added to the end of the second sentence of section 295.4(c) and to the end of the first sentence in section 295.4(d)(2) in order to clarify that the Board's records concerning the railroad employee will be reviewed to determine the most current address for each party to a partition order.

A new subparagraph (4) is added to section 295.5(f) to reflect the amendment made by Public Law 109–280 that allows continued payment of a partition tier II to a former spouse if the railroad employee dies on or after August 17, 2007. Paragraphs 295.5(a) and 295.5(f) are amended to include a reference to the new subparagraph (4).

A new subparagraph (2) is added to section 295.7(e) to clarify that an erroneous payment to the employee may occur if the Board has all required documentation and due to clerical oversight fails to withhold the amount awarded by a court partition order.

Finally, references to ''Deputy General Counsel'' and to the ''Associate Executive Director for Retirement Claims'' throughout Part 295 are changed to ''General Counsel'' and ''Director of Retirement Benefits'' respectively in order to reflect title changes within the agency. Several minor corrections of capitalization and grammar are also made.

This proposed rule has been determined to be a significant regulatory action, and therefore it has been reviewed by the Office of Management and Budget prior to its publication in the **Federal Register**. There are no changes to the information collections associated with Part 295.

List of Subjects in 20 CFR Part 295

Railroad employees, railroad retirement.

For the reasons set out in the preamble, the Railroad Retirement Board proposes to amend title 20, chapter II, subchapter B, part 295 of the Code of Federal Regulations as follows:

PART 295—PAYMENTS PURSUANT TO COURT DECREE OR COURT-APPROVED PROPERTY SETTLEMENT

1. The authority citation for part 295 continues to read as follows:

Authority: 45 U.S.C. 231f; 45 U.S.C. 231m.

2. Section 295.1 is amended by revising paragraph (a), the introductory text of paragraph (b), and paragraph (b)(3) to read as follows:

§ 295.1 Introduction.

(a) Purpose. This part implements section 419 of Public Law 98–76 (97 Stat. 438), which amended section 14 of the Railroad Retirement Act to provide that, with respect to annuity amounts payable for months beginning with September 1983, the Board must comply with a court decree of divorce, annulment or legal separation, or with the terms of any court-approved property settlement incident to any such decree, which characterizes specified benefits as property subject to distribution. This part also implements section 1003 of Public Law 109–280 (120 Stat. 1053), which amended section 5 of the Railroad Retirement Act to allow the payment of an employee's tier II benefit component awarded to a

former spouse as part of a property distribution incident to a decree of divorce, annulment, or legal separation to continue after the employee's death. Garnishment of benefits for alimony or child support is dealt with in part 350 of this chapter.

(b) Benefits subject to this part. Only the following benefits or portions of benefits under the Railroad Retirement Act are subject to this part:

* * * * *

(3) Employee annuity increase as provided under section 3(f) of the Act; and

* * * * *

3. Section 295.2 is amended by adding a new definition of ''Former spouse'' and by revising the definition of ''spouse'' to read as follows:

§ 295.2 Definitions.

* * * * *

Former spouse means the former husband or wife of an employee who, on or before the date of a court order, was married to the employee and that marriage has ended by final decree of divorce, dissolution, or annulment.

* * * * *

Spouse means the husband or wife of an employee who, on or before the date of a court order, was married to the employee and that marriage has not ended by final decree of divorce, dissolution, or annulment.

§ 295.3 [Amended]

4. Section 295.3, paragraph (d) is amended by replacing all references to ''Deputy General Counsel'' with references to ''General Counsel''.

5. Section 295.4 is amended as follows:

a. By replacing wherever they appear all references to ''Deputy General Counsel'' with references to ''General Counsel''

b. By replacing all references to the ''Associate Executive Director for Retirement Claims'' with references to the ''Director of Retirement Benefits''

c. By replacing ''bs'' with ''be'' in the second to last sentence of paragraph (b)(2)(ii)

d. By adding the phrase ''pertaining to the employee'' at the end of the second sentence of the introductory paragraph of paragraph (c)

e. By adding the phrase ''pertaining to the employee'' at the end of the first sentence of paragraph (d)(2)

f. By capitalizing the word ''Board'' at the end of the last sentence in paragraph (d)(2)

g. By capitalizing the word ''Board'' in the last sentence of paragraph (d)(4)

h. By adding the following new paragraph (b)(4) to read as follows:

§ 295.4 Review of documentation.

* * * * *

(b) * * *

(4) Unless the order expressly provides otherwise, the Board will deduct the amount specified by the order from any annuity paid to the employee, whether the employee has retired based on age or on disability.

* * * * *

6. Section 295.5 is amended as follows:

a. By adding in paragraph (a) the phrase '', except as provided in paragraph (f)(4) of this section,'' in the second sentence between the words ''and'' and ''shall''

b. By substituting the word ''on'' for the word ''in'' in paragraph (d) in the phrase that reads ''to act in behalf of the spouse or former spouse''

c. By adding the phrase ''Except as provided in paragraph (4) of this paragraph'' to the beginning of the first sentence of the introduction to paragraph (f)

d. By substituting references to ''Deputy General Counsel'' with references to ''General Counsel'' in paragraph (g) and

e. By adding a new paragraph (f)(4) to read as follows:

§ 295.5 Limitations.

* * * * *

(f) * * *

(4) If the employee dies on or after August 17, 2007, a former spouse who is receiving a portion of the employee's annuity pursuant to a court decree or property settlement compliant with this part may continue to receive a portion of the employee's tier II benefit component unless the court decree or property settlement requires such payment to terminate upon the death of the employee.

* * * * *

§ 295.6 [Amended]

7. Section 295.6 is amended as follows:

a. In paragraph (b) by substituting ''General Counsel'' for ''Deputy General Counsel'' and by substituting ''Director of Retirement Benefits'' for all references to the ''Associate Executive Director for Retirement Claims''

b. By adding the word ''a'' to the first sentence of paragraph (b) before the word ''request''

c. By adding the word ''a'' to the first sentence of paragraph (c) before the word ''signed''.

8. Section 295.7 is amended by redesignating paragraph (e) as paragraph (e)(1) and adding a new paragraph (e)(2) to read as follows:

§ 295.7 Miscellaneous.

* * * * *

(e) * * *

(2) Where all documentation required by this part is in the Board's records pertaining to the employee prior to the time the employee annuity is awarded, but where the Board due to clerical oversight fails to withhold the amount awarded by the court order, then the Board shall begin deduction from the employee annuity with the month the error is discovered, and shall pay the amount which should have been withheld pursuant to this part to the spouse or former spouse. The amount paid to the spouse or former spouse representing months for which the amount under the order was not timely withheld shall be an erroneous payment to the employee within the meaning of section 10 of the Railroad Retirement Act. This section shall not apply where the Board has attempted to contact the spouse or former spouse at the time the employee annuity is awarded pursuant to section 295.4(d).

Dated: March 3, 2008.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. E8–4381 Filed 3–5–08; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 630

[FHWA Docket No. FHWA–2007–0020]

RIN 2125–AF23

Advance Construction of Federal-Aid Projects

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: The FHWA is proposing to revise the regulation for advance construction of Federal-aid projects by: Removing the restriction that a State must obligate all of its allocated or apportioned funds, or demonstrate that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction, prior to the approval of advance construction projects; and clarifying that advance construction procedures may be used for all categories of Federal-aid highway funds, and that any available Federal-aid funds for which a project is eligible may be used when a project is converted

to a Federal-aid project. These revisions will make the regulation consistent with the advance construction statute, which was amended by a provision enacted in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU).

DATES: Comments must be received on or before May 5, 2008. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Mail or hand deliver comments to Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590. You may also submit comments electronically at *http://www.regulations.gov*, or fax comments to (202) 493–2251. All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review the 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://DocketsInfo.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. Dale Gray, Federal-aid Financial Management Division, (202) 366–0978, or Mr. Steven Rochlis, Office of the Chief Counsel, (202) 366–1395, Federal Highway Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Federal eRulemaking portal at *http://www.regulations.gov.* It is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the Web site. An electronic copy of this document may also be downloaded by accessing the Office of the **Federal Register**'s home page at: *http://www.archives.gov* or the Government Printing Office's Web page at *http://www.gpoaccess.gov/nara.*

Background

Section 115 of title 23, United States Code, permits the Secretary to authorize States to advance the construction of Federal-aid highway projects without requiring that Federal funds be obligated at the time the FHWA approves a project. The State may proceed with an advance construction project using State funds as no present or future Federal funds are actually committed to the project. At any time the State may request that the project be converted to a Federal-aid project provided that sufficient Federal-aid funds and obligation authority are available. A State also may request a partial conversion where only a portion of the Federal share of project costs is obligated and reimbursed; and the remainder may be converted at a later time provided that funds are available. Only the amount converted becomes an obligation of the Federal Government.

Section 1501 of SAFETEA–LU (Pub. L. 109–59, 119 Stat. 1144) amended 23 U.S.C. 115 to remove a restriction that a State must obligate all of its allocated or apportioned funds, or demonstrate that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction, prior to the approval of advance construction projects. Section 1501 also amended the statute to clarify that advance construction procedures can be used for all categories of Federal-aid highway funds and that when a project is converted to a regular Federal-aid project, any available Federal-aid funds may be used to convert a project which is eligible. The FHWA regulations concerning advance construction, which reflect the advance construction requirements prior to the enactment of SAFETEA–LU, are therefore no longer consistent with the statute.

Discussion of Proposed Change

Section 630.703 Eligibility

In this NPRM the FHWA proposes to revise the regulations for advance construction, contained in 23 CFR 630.703, so they are consistent with the advance construction statute as amended by section 1501 of SAFETEA–LU. These proposed revisions would make two changes. First, they would remove the restriction that a State must obligate all of its allocated or apportioned funds, or demonstrate that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction prior to the approval of advance construction projects. Second, the revisions will clarify that advance construction procedures may be used for all categories of Federal-aid highway funds, and that any available Federal-aid funds may be used when a project is converted to a Federal-aid project. These revisions will make 23 CFR part 630 consistent with the advance construction statute at 23 U.S.C. 115, as amended by section 1501 of SAFETEA–LU.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this action is not a significant regulatory action within the meaning of Executive Order 12866 and would not be significant within the meaning of the U.S. Department of Transportation's regulatory policies and procedures. This proposed rule will not adversely affect, in a material way, any sector of the economy. This proposed action would revise the regulation for advance construction of Federal-aid projects by removing the restriction that a State must obligate all of its allocated or apportioned funds, or demonstrate that it will use all obligation authority allocated to it for Federal-aid highways and highway safety construction, prior to the approval of advance construction projects. This proposal also clarifies that advance construction procedures may be used for all categories of Federal-aid highway funds, and that any available Federal-aid funds for which the project is eligible may be used when a project is converted to a Federal-aid project. There will not be any additional costs incurred by any affected group as a result of this rule. In addition, these proposed changes will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees or loan programs.

Consequently, a regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), we have evaluated the effects of this proposed action on small entities and have determined that the proposed action would not have a significant economic impact on a substantial number of small entities. The FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has preliminarily determined that this proposed action would not warrant the preparation of a Federalism assessment. The FHWA has determined that this proposed action would not affect the States' ability to discharge traditional State government functions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program. Accordingly, the FHWA solicits comments on this issue.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $128.1 million or more in any one year. (2 U.S.C. 1532) Further, in compliance with the Unfunded Mandates Reform Act of 1995, the FHWA will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector.

Executive Order 12988 (Civil Justice Reform)

This proposed action 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.

Executive Order 13045 (Protection of Children)

The FHWA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not cause any environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

National Environmental Policy Act

The FHWA has analyzed this proposed action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347) and has determined that this proposed action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (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. Therefore, a Statement of Energy Effects is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory section 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 contained in the heading of this document can be used to cross-reference this section with the Unified Agenda.

List of Subjects in 23 CFR Part 630

Reimbursement, Grants programs—transportation, Highways and roads.

Issued on: February 28, 2008.

James D. Ray,

Acting Federal Highway Administrator.

In consideration of the foregoing, the FHWA proposes to amend Chapter I of title 23, Code of Federal Regulations as set forth below.

PART 630—PRECONSTRUCTION PROCEDURES

1. The authority citation for part 630 is revised to read as follows:

Authority: 23 U.S.C. 106, 109, 112, 115, 315, 320, and 402(a); Sec. 1501 and 1503 of Pub. L. 109–59, 119 Stat. 1144; Pub. L. 105–178, 112 Stat. 193; Pub. L. 104–59, 109 Stat. 582; Pub. L. 97–424, 96 Stat. 2106; Pub. L. 90–495, 82 Stat. 828; Pub. L. 85–767, 72 Stat. 896; Pub. L. 84–627, 70 Stat. 380; 23 CFR 1.32 and 49 CFR 1.48(b).

Subpart G—Advance Construction of Federal-Aid Projects

2. Revise § 630.703 to read as follows:

§ 630.703 Eligibility.

(a) The State Department of Transportation (DOT) may proceed with a project authorized in accordance with title 23, United States Code:

(1) Without the use of Federal funds; and

(2) In accordance with all procedures and requirements applicable to the project other than those procedures and requirements that limit the State to implementation of a project—

(i) With the aid of Federal funds previously apportioned or allocated to the State; or

(ii) With obligation authority previously allocated to the State.

(b) The FHWA, on the request of a State and execution of a project agreement, may obligate all or a portion of the Federal share of a project

authorized to proceed under this section from any category of funds for which the project is eligible.

§ 630.709 [Amended]

3. Amend § 630.709 by removing the term ''SHA'' in each place it appears, and add in its place the term ''State Department of Transportation.''

[FR Doc. E8–4338 Filed 3–5–08; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–127770–07]

RIN 1545–BG77

Modifications of Commercial Mortgage Loans Held by a Real Estate Mortgage Investment Conduit (REMIC); Hearing

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This document provides notice of public hearing on proposed regulations that would expand the list of permitted loan modifications to include certain modifications of commercial mortgages.

DATES: The public hearing is being held on Friday, April 4, 2008, at 10:30 a.m. The IRS must receive outlines of the topics to be discussed at the public hearing by Friday, March 14, 2008.

ADDRESSES: The public hearing is being held in the IRS Auditorium, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC 20224. Send Submissions to CC:PA:LPD:PR (REG–127770–07), room 5205, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday to CC:PA:LPD:PR (REG–127770–07), Couriers Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC or sent electronically via the Federal erulemaking Portal at *www.regulations.gov* (IRS–REG–127770–07).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Diana Imholtz or Susan Thompson Baker (202) 622–3930; concerning submissions of comments, the hearing and/or to be placed on the building access list to attend the hearing Funmi Taylor at (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is the notice of proposed rulemaking (REG–127770–07) that was published in the **Federal Register** on Friday, November 9, 2007 (72 FR 63523).

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing that submitted written comments by February 7, 2008 must submit an outline of the topics to be addressed and the amount of time to be allotted to each topic (signed original and eight copies)

A period of 10 minutes is allotted to each person for presenting oral comments. After the deadline for receiving outlines has passed, the IRS will prepare an agenda containing the schedule of speakers. Copies of the agenda will be made available, free of charge, at the hearing or in the Freedom of Information Reading Room (FOIA RR) (Room 1621) which is located at the 11th and Pennsylvania Avenue, NW., entrance, 1111 Constitution Avenue, NW., Washington, DC.

Because of access restrictions, the IRS will not admit visitors beyond the immediate entrance area more than 30 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this document.

LaNita VanDyke,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. E8–4297 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[Docket No. EPA–R02–OAR–2008–0004; FRL–8539–1]

Approval and Promulgation of Implementation Plans; Reasonably Available Control Technology for Oxides of Nitrogen for a Specific Source in the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve a revision to the State Implementation Plan (SIP) for ozone submitted by the State of New Jersey. This SIP revision consists of a source-specific reasonably available control technology (RACT) determination for controlling oxides of nitrogen from the stationary internal combustion engines and boilers operated by the Trigen-Trenton Energy Co., L.P. This action proposes an approval of the source specific RACT determination that was made by New Jersey in accordance with the provisions of its regulation to help meet the national ambient air quality standard for ozone. The intended effect of this proposed rule is to approve source-specific emissions limitations required by the Clean Air Act.

DATES: Comments must be received on or before April 7, 2008.

ADDRESSES: Submit your comments, identified by Docket Number EPA–R02–OAR–2008–0004, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: Werner.Raymond@epa.gov.*
- *Fax:* 212–637–3901
- *Mail:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.
- *Hand Delivery:* Raymond Werner, Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866. 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 to 4:30 excluding Federal holidays.

Instructions: Direct your comments to Docket No. EPA–R02–OAR–2008–0004. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the

Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters or any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Region II Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866. EPA requests, if at all possible, that you contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section to view the hard copy of the docket. You may view the hard copy of the docket Monday through Friday, 8 a.m. to 4 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gavin Lau, Air Programs Branch, Environmental Protection Agency, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3708 or *Lau.Gavin@epa.gov.*

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I. EPA's Proposed Action

A. What Action Is EPA Proposing Today?

EPA is proposing to approve New Jersey's revision to the ozone State Implementation Plan (SIP) submitted on August 7, 2007. This SIP revision relates to New Jersey's NO_X RACT determination for the Trigen-Trenton Energy Co. L.P. (Trigen) facility located in Trenton, Mercer County. The facility contains two stationary reciprocating internal combustion engines and two boilers vented through a common stack.

B. Why Is EPA Proposing This Action?

EPA is proposing this action to:

- Give the public the opportunity to submit comments on EPA's proposed action, as discussed in the **DATES** and **ADDRESSES** sections.
- Fulfill New Jersey's and EPA's requirements under the Clean Air Act (Act).
- Make New Jersey's RACT determination federally-enforceable.

C. What Are the Clean Air Act Requirements for NO_X RACT?

The Act requires certain states to develop RACT regulations for stationary sources of NO_X and to provide for the implementation of the required measures as soon as practicable. Under the Act, the definition of a major stationary source is based on the tons per year (tpy) of air pollution a source emits and the quality of the air in the area of a source. In ozone transport regions, attainment/unclassified areas as well as marginal and moderate ozone attainment areas, a major stationary source for NO_X is considered to be one which emits or has the potential to emit 100 tpy or more of NO_X and is subject to the requirements of a moderate nonattainment area. New Jersey is within the Northeast ozone transport region, established by section 184(a) of the Act, and has defined a major stationary source of NO_X as a source which has the potential to emit 25 tpy, the level set for severe nonattainment areas. For detailed information on the Act requirements for NO_X RACT see the Technical Support Document (TSD), prepared in support of this proposed action. A copy of the TSD is available upon request from the EPA Regional Office listed in the **ADDRESSES** section or it can be viewed at *www.regulations.gov.*

D. What Is EPA's Evaluation of New Jersey's SIP Revision?

EPA has determined that New Jersey's SIP revision for the NO_X RACT determination for Trigen's engines and boilers is consistent with New Jersey's NO_X RACT regulation and EPA's guidance. EPA's basis for evaluating New Jersey's SIP revision is whether it meets the SIP requirements described in section 110 of the Act. EPA has determined that New Jersey's SIP revision will not interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement to the Act.

After reviewing New Jersey's SIP revision submittal, EPA found it administratively and technically complete. EPA has determined that the NO_X emission limits identified in New Jersey's Conditions of Approval document represent RACT for Trigen's engines and boilers. The conditions contained in the Conditions of Approval Document currently specify emissions limits, work practice standards, testing, monitoring, and recordkeeping/reporting requirements. These conditions are consistent with the NO_X RACT requirements specified in Subchapter 19 of Chapter 27, Title 7 of the New Jersey Administrative Code and conform to EPA NO_X RACT guidance. More specifically, EPA proposes to approve the current Conditions of Approval document which includes an alternative emissions limit for the Trigen engines and boilers while operating on dual fuel and low sulfur distillate oil. While burning dual fuel, Trigen will comply with the NO_X RACT limit of 2.3 g/bhp-hr. Under conditions specified for burning low sulfur distillate oil, emissions of NO_X from the engines and boilers shall not exceed 12 g/bhp-hr. The use of low sulfur distillate oil is limited to 200 hours per year per engine during startup, shutdown, injector cleanout, major component break-in and during emergencies. Trigen is also limited to using low sulfur distillate oil for only one engine at any time, excluding times of natural gas curtailment or emergency. Please note there may be other requirements, such as adequate monitoring, which States and sources will need to provide for, through the Title V permitting process.

II. New Jersey's SIP Revision

A. What Are New Jersey's NO_X RACT Requirements?

New Jersey's NO_X RACT requirements are contained in Subchapter 19, entitled ''Control of Oxides of Nitrogen'', of Chapter 27, Title 7 of the New Jersey Administrative Code. New Jersey has made numerous revisions to Subchapter 19 since the original SIP submission. The current SIP approved version of Subchapter 19 has an effective date of

October 17, 2005 and was approved by EPA on July 31, 2007.

B. What Are New Jersey's Facility-Specific NO_X RACT Requirements?

Section 19.13 of New Jersey's regulation establishes a procedure for what a case-by-case determination of what represents RACT for a major NO_X facility, item of equipment, or source operation. This procedure applies to facilities considered major for NO_X, which are in one of the following two situations: (1) Except for non-utility boilers, if the NO_X facility contains any source operation or item of equipment of a category not listed in section 19.2 which has the potential to emit more than 10 tons of NO_X per year, or (2) if the owner or operator of a source operation or item of equipment of a category listed in section 19.2 seeks approval of an alternative maximum allowable emission rate. This proposal relates to a facility in the second situation listed above.

New Jersey's procedure requires either submission of a NO_X control plan, if specific emission limitations do not apply to the specific source, or submission of a request for an alternative maximum allowable emission rate if specific emission limitations do apply to the specific source. In either case, the owners/operators must include a technical and economic feasibility analysis of the possible alternative control measures. Also, in either case, subchapter 19 requires that New Jersey establish emission limits which rely on a RACT determination specific to the facility. The resulting NO_X control plan or alternative maximum allowable emission rate must be submitted to EPA for approval as a SIP revision.

C. When Was New Jersey's RACT Determination Proposed and Adopted?

New Jersey's RACT determination was proposed on December 11, 2006, with the public comment period ending January 10, 2007. New Jersey adopted the RACT determination on January 11, 2007.

D. When Was New Jersey's SIP Revision Submitted to EPA?

New Jersey's SIP revision was submitted to EPA on August 7, 2007. EPA determined that the submittal was administratively and technically complete on December 3, 2007.

III. Conclusion

EPA is proposing to approve the New Jersey SIP revision for an alternative RACT emission limit determination for the Trigen-Trenton Energy Co. L.P engines and boilers. This SIP revision contains source-specific NO_X emission limitations for Trigen. EPA will consider all comments submitted prior to any final rulemaking action.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed 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 proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed 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 proposes to approve 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 proposed 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Act. This proposed 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 Clean Air Act. 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 Act. 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 proposed 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.*).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxides, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

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

Dated: February 26, 2008.

Alan J. Steinberg,

Regional Administrator, Region 2.

[FR Doc. E8–4346 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 268

[EPA–HQ–RCRA–2007–0936; FRL–8538–7]

Land Disposal Restrictions: Site-Specific Treatment Variance for P- and U-Listed Hazardous Mixed Wastes Treated by Vacuum Thermal Desorption at the EnergySolutions' Facility in Clive, Utah

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA or the Agency) is proposing to grant a site-specific treatment variance to EnergySolutions LLC (EnergySolutions) in Clive, Utah, for the treatment of certain P- and U-listed hazardous waste containing radioactive contamination (''mixed waste'') using vacuum thermal desorption (VTD). This variance is an alternative treatment standard to treatment by combustion (CMBST) required for these wastes under EPA

rules implementing the land disposal restriction (LDR) provisions of the Resource Conservation and Recovery Act (RCRA). The Agency has determined that combustion of the solid treatment residue generated from the VTD unit is technically inappropriate due to the effective performance of the VTD unit. Once the P- and U-listed mixed waste are treated using VTD, the solid treatment residue can be land disposed without further treatment. This proposed treatment variance is conditioned upon EnergySolutions complying with a Waste Family Demonstration Testing (WFDT) plan specifically addressing the treatment of these P- and U-listed wastes, which is to be implemented through a RCRA Part B permit modification for the VTD unit.

DATES: Comments must be received on or before April 7, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2007–0936, by one of the following methods:

www.regulations.gov: Follow the on-line instructions for submitting comments.

Email: rcra-docket@epa.gov and *parra.juan@epa.gov*. Attention Docket ID No. EPA–HQ–RCRA–2007–0936.

Fax: 202–566–9744. Attention Docket ID No. EPA–HQ–RCRA–2007–0936.

Mail: RCRA Docket (2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460. Attention Docket ID No. EPA–HQ–RCRA–2007–0936. Please include a total of 2 copies.

Hand Delivery: EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2007–0936. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://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 *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the HQ–Docket Center, Docket ID No. EPA–HQ–RCRA–2007–0936, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is (202) 566–0270. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: For more information on this rulemaking, contact Juan Parra, Hazardous Waste Minimization and Management Division, Office of Solid Waste (MC 5302 P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308–0478; fax (703) 308–8443; or *parra.juan@epa.gov* or Elaine Eby, Hazardous Waste Minimization and Management Division, Office of Solid Waste (MC 5302 P), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone (703) 308–8449; fax (703) 308–8443; or *eby.elaine@epa.gov*.

SUPPLEMENTARY INFORMATION:

Does This Action Apply to Me?

The only regulated entity that will be affected by this proposed rule is EnergySolutions located in Clive, Utah.

Why Is EPA Using a Proposed Rule?

This document proposes to take action by granting a site-specific treatment variance to EnergySolutions located in Clive, Utah. We also have published a direct final rule identical to this proposal in the ''Rules and Regulations'' section of this **Federal Register** because we view this action as noncontroversial and anticipate no significant adverse comment. We have explained our reasons for this action in the preamble to the direct final rule.

If we receive no significant adverse comment, we will not take further action on this proposed rule. If we do receive such adverse comment, we will publish a timely notice in the **Federal Register** informing the public that the final rule will be withdrawn due to adverse comment. We will address all public comments in any subsequent final rule based on this proposed rule. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

Direct Final Rule and Location of Regulatory Text for This Proposal

The regulatory text for this proposal is identical to that for the direct final rule published in the Rules and Regulations section of this **Federal Register**. For further supplemental information, the detailed rationale for the proposal, and the regulatory revisions, see the information provided in the direct final rule published in the Rules and Regulations section of today's **Federal Register**.

Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations section of this **Federal Register**.

Regulatory Flexibility Act

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

organizations, and small governmental jurisdictions.

This site-specific treatment variance does not propose to create any new requirements. Rather, it proposes an alternative treatment standard for specific waste codes and applies to only one facility. Therefore, we hereby certify that this rule will not add any new regulatory requirements to small entities. This rule, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 268

Environmental protection, Hazardous waste, Mixed waste and variances.

Dated: February 28, 2008.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. E8–4428 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 372

[EPA–HQ–TRI–2007–0318; FRL–8539–5]

RIN 2025–AA*22*

Community Right-to-Know; Corrections and 2007 Updates to the Toxics Release Inventory (TRI) North American Industry Classification System (NAICS) Reporting Codes; Proposed Rule; Request for Public Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the regulations to make certain updates and corrections. EPA is proposing to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) 2007 NAICS revision. Facilities would be required to report to TRI using 2007 NAICS codes beginning with TRI reporting forms that are due on July 1, 2009, covering releases and other waste management quantities for the 2008 calendar year. EPA is also proposing to make corrections to the list of NAICS codes subject to reporting under TRI that was published on June 6, 2006, in the final rule adopting NAICS for TRI reporting and to correct a longstanding typographical error in the regulatory text.

DATES: Written comments must be received by April 7, 2008.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–TRI–2007–0318, by one of the following methods:

- *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* oei.docket@epa.gov.
- *Fax:* (202) 566–9744
- *Mail:* OEI Docket, Environmental Protection Agency, Mailcode 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–TRI–2007–0318. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information for which disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or e-mail. The *http://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 *http://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 or any form of encryption and must be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information for which disclosure is restricted by statute. Certain other materials, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the OEI Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The Public Reading Room is open Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

FOR FURTHER INFORMATION CONTACT: For general information on TRI, contact the Emergency Planning and Community Right-to-Know Hotline at (800) 424–9346 or (703) 412–9810, TDD (800) 553–7672, *http://www.epa.gov/epaoswer/hotline/.* For specific information on this rulemaking contact: Judith Kendall, Toxics Release Inventory Program Division, Mailcode 2844T, OEI, Environmental Protection Agency, Ariel Rios Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460; Telephone: (202) 566–0750; Fax: (202) 566–0741; e-mail: *kendall.judith@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is EPA Issuing this Proposed Rule?

EPA is proposing to update the list of North American Industry Classification System (NAICS) codes subject to reporting under the Toxics Release Inventory (TRI) to reflect the Office of Management and Budget (OMB) 2007 NAICS revision. OMB's Notice of March 16, 2006, states that ''data published for reference years beginning on or after January 1, 2007, should be published using the 2007 NAICS United States Codes.'' 71 FR 28532.

EPA is also proposing to make corrections to the list of TRI-covered NAICS codes from the 2006 TRI NAICS rule. Certain items that should have been included in the final list of NAICS codes subject to TRI reporting were inadvertently omitted from the final list. Unrelated to the NAICS rule, EPA is using this opportunity to correct a longstanding error in the regulations that refers to section 372.17 when, in fact, the reference should be 40 CFR 372.30.

The updated list of TRI-covered NAICS codes is listed in 40 CFR

372.23(b) ''NAICS codes that correspond to SIC codes 20 through 39'', and (c) ''NAICS codes that correspond to SIC codes other than SIC codes 20 through 39.'' Labels have been added to the 3-digit subsector codes and the 6-digit national industry codes to provide descriptions of the NAICS industries that are covered for TRI. These labels are being added for clarification purposes, and they are identical to the labels that appear in the OMB NAICS manual, Executive Office of the President, Office of Management and Budget, *North American Industry Classification System, United States, 2007,* Bernan, a division of The Kraus Organization Limited, 2007.

II. Does This Action Apply to Me?

Entities that may be affected by this action are those facilities that have 10 or more full-time employees or the equivalent 20,000 hours per year that manufacture, process, or otherwise use toxic chemicals listed on the TRI, and that are required under section 313 of the Emergency Planning and Community Right-to-Know Act (EPCRA) and section 6607 of the Pollution Prevention Act (PPA) to report annually to EPA and States their environmental releases and other waste management quantities of covered chemicals. Under Executive Order 13423, published on January 24, 2007 (72 FR 3919), all federal facilities are required to comply with the provisions set forth in Section 313 of EPCRA and section 6607 of the PPA. On April 2, 2007, the White House Council on Environmental Quality (CEQ) issued *Instructions for Implementing Executive Order 13423*, including annual reporting to the TRI program. Executive departments and agencies are required to implement the activities described in the instructions in accordance with sections 1, 2, 3 and 4(b) of the Executive Order.

To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in part 372, subpart B of Title 40 of the Code of Federal Regulations. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

III. What is EPA's Statutory Authority for Taking This Action?

EPA is taking this action under sections 313(g)(1) and 328 of EPCRA, 42 U.S.C. 11023(g)(1) and 11048. EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA) (Pub. L. 99–499). In general, section 313 of EPCRA requires owners and operators of facilities in specified Standard Industrial Classification (SIC) codes that manufacture, process, or otherwise use a listed toxic chemical in amounts above specified threshold levels to report certain facility specific information about such chemicals, including the annual releases and other waste management quantities. Section 313(g)(1) of EPCRA requires EPA to publish a uniform toxic chemical release form for these reporting purposes, and it also prescribes, in general terms, the types of information that must be submitted on the form. Section 313(g)(1)(A) requires owners and operators of facilities that are subject to section 313 requirements to report the principal business activities at the facilities. Congress also granted EPA broad rulemaking authority to allow the Agency to fully implement the statute. EPCRA section 328 authorizes the ''Administrator [to] prescribe such regulations as may be necessary to carry out this chapter.'' 42 U.S.C. 11048.

Consistent with these authorities, EPA amended 40 CFR Part 372 to include the 2002 NAICS codes that correspond to the SIC codes that are currently subject to section 313 of EPCRA and section 6607 of the PPA. 71 FR 32464 (June 6, 2006). EPA is now proposing to amend 40 CFR Part 372 to include OMB's revised NAICS codes for 2007.

Owners and operators of facilities that are subject to section 313 must identify their principal business activities using 2007 NAICS codes beginning with TRI reporting forms that are due on July 1, 2009, covering releases and other waste management quantities at the facility for the 2008 calendar year.

IV. Background Information

What Is the General Background for This Action?

EPA promulgated a final TRI NAICS rule on June 6, 2006, to amend its regulations for TRI, found at 40 CFR Part 372, to include the NAICS codes. The list of TRI NAICS codes that appeared in the final rule was developed from the 2002 NAICS revision. EPA is proposing updates to that list based on the OMB 2007 NAICS revision. In addition, certain TRI-covered NAICS codes and certain exceptions and limitations to TRI-covered NAICS codes did not appear in the June 6, 2006, notice's list of TRI-covered NAICS codes and are now being proposed for inclusion. These omissions are discussed in greater detail in Section VI of this notice.

V. Proposed Action

A. What Is the Agency Proposing?

EPA will amend 40 CFR Part 372 to correct the list of NAICS codes for TRI reporting and to update the list using 2007 NAICS codes so that the NAICS codes listed in the TRI regulations accurately reflect the universe of covered facilities under section 313 of EPCRA and section 6607 of the PPA.

In addition, unrelated to the NAICS codes, EPA is using this rulemaking as an opportunity to correct a reference to a nonexistent section in Part 372. Specifically, § 372.5 (Persons subject to this part) reads, in pertinent part ''If the owner and operator of a facility are different persons, only one need report under § 372.17 or provide a notice under § 372.45 for each toxic chemical in a mixture or trade name product distributed from the facility.'' There is no 40 CFR 372.17 and therefore, reference to this section is an error which the Agency is proposing to revise to refer to the appropriate section on TRI reporting requirements, § 372.30 (Reporting requirements and schedule for reporting).

B. Will the Proposal Change the Universe of Facilities That Are Currently Required to Report to EPA and the States?

EPA's final rule of June 2006 defined the universe of facilities that is currently required to report under section 313 of EPCRA and section 6607 of the PPA. Certain facilities that should have been included in the final list of NAICS codes subject to TRI reporting in the June 2006 rule were inadvertently omitted. We are clarifying in this notice that those facilities are subject to TRI reporting.

C. How Will Section 313 Reporting Requirements Change as a Result of This Proposed Rule?

TRI reporting requirements will not change as a result of this final rule. This rule will revise the NAICS codes to reflect the OMB NAICS 2007 revision and correct inadvertent omissions that occurred when identifying the NAICS codes that are associated with the SIC codes that are covered by the statute. This rule will help clarify that certain sectors are still required to report to TRI and to accurately reflect all covered sectors in the list of TRI-covered NAICS codes.

VI. Which TRI-Covered NAICS Codes Have Been Modified Under This Proposed Rule?

An OMB **Federal Register** notice published on March 16, 2006 (71 FR 28532), updates NAICS for 2007. All

facilities that currently report to TRI will still be required to report to TRI. However, due to the 2007 NAICS modifications, some facilities will need to modify their NAICS codes as outlined in the tables below. The following OMB final revisions are those that apply to the 2002 TRI-covered NAICS codes in the manufacturing sector (NAICS 31–33).

For a small subset of 2002 NAICS codes, the 2007 NAICS revisions replace one 2002 NAICS code with two or more 2007 NAICS codes (see the table below). In one case—for the 2002 NAICS code 339111—the 2002 NAICS code number has been completely replaced by other more specific existing NAICS codes and the code 339111 no longer appears in the NAICS code listing.

The following final revisions from the OMB 2007 NAICS rule apply to 2002 TRI-covered NAICS codes in the NAICS manufacturing sector.

2002 NAICS code	2002 NAICS and U.S. description		2007 NAICS code	2002 NAICS and U.S. description
315211 ...	Men's and Boys' Cut and Sew Apparel Contractors *embroidery contractors* *except embroidery* *contractors*	→	314999 315211	All Other Miscellaneous Textile Product Mills. Men's and Boys' Cut and Sew Apparel Contractors.
315212 ...	Women's, Girls' and Infants' Cut and Sew Apparel Contractors *embroidery contractors* *except embroidery* *contractors*	→	314999 315212	All Other Miscellaneous Textile Product Mills. Women's, Girls' and Infants' Cut and Sew Apparel Contractors.
326199 ...	All Other Plastics Product Manufacturing. *except inflatable plastics boats* *inflatable plastics boats*	→	326199 336612	All Other Plastics Product Manufacturing. Boat Building.
326291 ...	Rubber Product Manufacturing for Mechanical Use. *except rubber tubing for mechanical use* *rubber tubing for mechanical use*	→	326291 326299	Rubber Product Manufacturing for Mechanical Use. All Other Rubber Product Manufacturing.
326299 ...	All Other Rubber Product Manufacturing. *except inflatable rubber boats* *inflatable rubber boats*	→	326299 336612	All Other Rubber Product Manufacturing. Boat Building.
334220 ...	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing *except communications signal* *testing and evaluation equipment* *communications signal* *testing and evaluation equipment*	→	334220 334515	Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. Instrument Manufacturing for Measuring and Testing Electricity and Signals.
339111 ...	Laboratory Apparatus and Furniture Manufacturing. *laboratory distilling equipment* *laboratory freezers* *laboratory furnaces and ovens* *laboratory scales and balances* *laboratory centrifuges* *laboratory furniture (e.g. stools, tables, benches) except laboratory distilling equipment, freezers, furnaces, ovens, scales, balances, centrifuges, and furniture*	→	333298 333415 333994 333997 333999 337127 339113	All Other Industrial Machinery Manufacturing. Air-conditioning and Warm Air Heating Equipment. And Commercial and Industrial Refrigeration Equipment Manufacturing. Industrial Process Furnace and Oven Manufacturing. Scale and Balance Manufacturing. All Other Miscellaneous General Purpose Machinery Manufacturing. Institutional Furniture Manufacturing. Surgical Appliance and Supplies Manufacturing.

None of the NAICS 2007 revisions for the manufacturing sector (NAICS 31–33) listed in the table above result in changes to the list of covered NAICS codes from the 2006 TRI NAICS rule, in which EPA amended its regulations for TRI to include NAICS codes. OMB has simply moved some of the definitions within specific NAICS manufacturing codes to other NAICS manufacturing codes, all of which are presently covered under the TRI regulations.

The following final revisions from the OMB 2007 NAICS rule apply to 2002 TRI-covered NAICS codes in sectors outside of the NAICS manufacturing sector.

2002 NAICS code	2002 NAICS and U.S. description		2007 NAICS code	2002 NAICS and U.S. description
516110 ...	Internet Publishing and Broadcasting	→	519130	Internet Publishing and Broadcasting and Web Search Portals.
541710 ...	Research and Development in the Physical, Engineering, and Life Sciences *biotechnology research and development* *except biotechnology research and development*	→	541711 541712	Research and Development in Biotechnology. Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).

The changes listed in the table above result in two minor changes to the list of covered NAICS codes in the 2006 TRI NAICS rule, in which EPA amended its regulations for TRI to include NAICS codes. NAICS 516110, Internet Publishing and Broadcasting, has been changed in the 2007 NAICS revision to 519130, Internet Publishing and Broadcasting and Web Search Portals. TRI will make this revision to its final list of covered NAICS codes; however, Web Search Portals will be listed as an exception from the reporting requirements since Web Search Portals are not covered in section 313 of EPCRA and section 6607 of PPA. Thus the facilities actually covered for the purposes of TRI reporting will remain the same.

NAICS 541710, Research and Development in the Physical, Engineering, and Life Sciences, has been separated into two different NAICS codes in order to single out biotechnology research and development. The 2002 NAICS code 541710 has become two new 2007 NAICS codes: NAICS 541711, Research and Development in Biotechnology, and NAICS 541712, Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology). The latter 2007 NAICS code, 541712, will replace 2002 NAICS code 541710 in the final list of TRI-covered NAICS codes. As with 2002 NAICS code 541710, TRI coverage for 2007 NAICS code 541712 will be limited to facilities that are primarily engaged in guided missile and space vehicle engine research and development (previously classified under SIC 3764, Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts), and in guided missile and space vehicle parts (except engines) research and development (previously classified under SIC 3769, Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified).

The 2007 NAICS code 541711 will not be added to the list of TRI-covered facilities, since facilities conducting research and development in biotechnology are not covered under section 313 of EPCRA and section 6607 of the PPA. Limitations exist and are noted in 40 CFR 372.23(b) for both NAICS 519130 and 541712.

EPA is also proposing several changes to the list of TRI-covered NAICS codes due to omissions that were identified from the list of NAICS codes published in the final TRI NAICS rulemaking dated June 6, 2006 (71 FR 32464). Two NAICS codes, 113310, Logging, and 221330, Steam and Air Conditioning Supply (with limitations), will be added to the final list of covered NAICS codes. NAICS 113310 corresponds to the TRI-covered SIC manufacturing code for logging, SIC 2411. NAICS 221330, Steam and Air Conditioning Supply, limited to facilities engaged in providing combinations of electric, gas, and other services, not elsewhere classified (N.E.C.), corresponds to covered SIC code 4939, Combination Utility Services N.E.C.

In addition, three exceptions (see table below) corresponding to NAICS manufacturing codes 312, 327, and 399 should have been listed in the June 6, 2006, final rule and would be added to the list of NAICS codes in the final regulations in 40 CFR 372.23. These changes do not alter the universe of facilities covered by section 313 of EPCRA and section 6607 of PPA, but rather amend the current TRI regulations to more accurately reflect that universe.

NAICS subsector (3-digit)	NAICS industries (6 digit)	Exception
312	312112—Bottled Water Manufacturing	Exception is limited to facilities primarily engaged in bottling mineral or spring water (previously classified under SIC 5149, Groceries and Related Products, NEC).
327	327112—Vitreous China, Fine Earthenware, and Other Pottery Product Manufacturing.	Exception is limited to facilities primarily engaged in manufacturing and selling pottery on site (previously classified under SIC 5719, Miscellaneous Homefurnishing Stores).
339	339113—Surgical Appliance and Supplies Manufacturing.	Exception is limited to facilities primarily engaged in manufacturing orthopedic devices to prescription in a retail environment (previously classified under SIC 5999, Miscellaneous Retail Stores, NEC).

VII. What Additional Reporting Burden Is Associated With This Action?

This proposed rule adds no new reporting requirements, and there will be no net increase in respondent burden. Facilities were first required to report their toxic chemical releases and other waste management activities to EPA using NAICS codes beginning in 2007 for reporting year 2006. Covered facilities should refer to the updated NAICS code list in 40 CFR 372.23 when reporting. Crosswalk tables between 2007 NAICS and 2002 NAICS can be found on the Internet at *http://www.census.gov/epcd/www/naics.html.*

VIII. Regulatory Assessment Requirements

A. Executive Order 12866

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

B. Paperwork Reduction Act

This action does not impose any new information collection burden. Facilities that are affected by the rule are already required to report their industrial classification codes on the approved reporting forms under section 313 of EPCRA and 6607 of the PPA.

The Office of Management and Budget (OMB) has previously approved the information collection requirements contained in the existing regulations at 40 CFR part 372 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned the Information Collection Request (ICR) OMB control numbers 2070–0093 (EPA ICR No. 1363–14) for Form R and 2070–0143 (EPA ICR No. 1704–08) for Form A. A copy of the OMB approved Information Collection Requests (ICRs) may be obtained from Rick Westlund, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

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

to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

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

C. The Regulatory Flexibility Act (RFA), as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq.

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

For purposes of assessing the impacts of this rule on small entities, small entity is defined as: (1) A business that is classified as a ''small business'' by the Small Business Administration at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. The small entities directly regulated by this proposed rule are TRI reporting facilities that have 10 or more full-time employee equivalents (i.e., a total of 20,000 hours or greater). We have determined that, since this rule makes only very minor revisions and updates to the TRI NAICS codes that are already being used by TRI-covered facilities on TRI reporting forms, the resulting burden due to these minor changes is negligible, and will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under Section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of the regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objective of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA. EPA has also determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Because this proposed rule simply updates and makes very minor corrections to the TRI NAICS codes that have already been implemented for reporting by TRI facilities, the rule will not impose substantial direct compliance costs on TRI reporting facilities regulated under section 313 of EPCRA and 6607 of the PPA.

E. Executive Order 13132, Federalism

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

This rule does not have federalism implications. It will not have a substantial direct effect on 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. Thus, Executive Order 13132 does not apply to this rule.

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

Executive Order 13175, entitled *Consultation and Coordination with Indian Tribal Governments,* (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' EPA has concluded that this proposed rule may have tribal implications as TRI reporting facilities may be on tribal lands. However, the rule simply updates and makes corrections to the TRI NAICS codes that have already been implemented for reporting by TRI facilities, include those on tribal lands. As such, the rule will neither impose substantial direct compliance costs on tribal governments, nor preempt Tribal law.

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

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use (66 FR 28355, (May 22, 2001)), because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

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

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations.

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the rule addresses information collection and does not affect the level of protection provided to human health or the environment.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: February 28, 2008.

Stephen L. Johnson,

Administrator.

For the reasons set out in the preamble, title 40 Chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 372—[AMENDED]

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

§ 372.5 [Amended]

2. Amend § 372.5, by removing the reference to ''372.17'' and adding in its place the reference ''372.30''.

3. Amend § 372.22 by revising paragraph (b) introductory text to read as follows:

§ 372.22 Covered facilities for toxic chemical release reporting.

* * * * *

(b) The facility is in a Standard Industrial Classification (SIC) (as in effect on January 1, 1987) major group or industry code listed in § 372.23(a), for which the corresponding North American Industry Classification System (NAICS) (as in effect on January 1, 2007, for reporting year 2008 and thereafter) subsector and industry codes are listed in § 372.23(b) and 372.23(c) by virtue of the fact that it meets one of the following criteria:

* * * * *

4. Amend § 372.23 by revising paragraphs (b) and (c) to read as follows:

§ 372.23 SIC and NAICS codes to which this Part applies.

* * * * *

(b) NAICS codes that correspond to SIC codes 20 through 39

Subsector code or industry code	Exceptions and/or limitations
113310 Logging	
311 Food Manufacturing	Except 311119—Exception is limited to facilities primarily engaged in Custom Grain Grinding for Animal Feed (previously classified under SIC 0723, Crop Preparation Services for Market, Except Cotton Ginning); Except 311330—Exception is limited to facilities primarily engaged in the retail sale of candy, nuts, popcorn and other confections not for immediate consumption made on the premises (previously classified under SIC 5441, Candy, Nut, and Confectionery Stores); Except 311340—Exception is limited to facilities primarily engaged in the retail sale of candy, nuts, popcorn and other confections not for immediate consumption made on the premises (previously classified under SIC 5441, Candy, Nut, and Confectionery Stores); Except 311811—Retail Bakeries (previously classified under SIC 5461, Retail Bakeries); Except 311611—Exception is limited to facilities primarily engaged in Custom Slaughtering for individuals (previously classified under SIC 0751, Livestock Services, Except Veterinary, Slaughtering, custom: for individuals); Except 311612—Exception is limited to facilities primarily engaged in the cutting up and resale of purchased fresh carcasses for the trade (including boxed beef), and in the wholesale distribution of fresh, cured, and processed (but not canned) meats and lard (previously classified under SIC 5147, Meats and Meat Products);
312 Beverage and Tobacco Product Manufacturing.	Except 312112—Exception is limited to facilities primarily engaged in bottling mineral or spring water (previously classified under SIC 5149, Groceries and Related Products, NEC); Except 312229—Exception is limited to facilities primarily engaged in providing Tobacco Sheeting Services (previously classified under SIC 7389, Business Services, NEC);

Subsector code or industry code	Exceptions and/or limitations
313 Textile Mills	Except 313311—Exception is limited to facilities primarily engaged in converting broadwoven piece goods and broadwoven textiles, (previously classified under SIC 5131, Piece Goods Notions, and Other Dry Goods, broadwoven and non-broadwoven piece good converters), and facilities primarily engaged in sponging fabric for tailors and dressmakers (previously classified under SIC 7389, Business Services, NEC (Sponging fabric for tailors and dressmakers)); Except 313312—Exception is limited to facilities primarily engaged in converting narrow woven Textiles, and narrow woven piece goods, (previously classified under SIC 5131, Piece Goods Notions, and Other Dry Goods, converters, except broadwoven fabric);
314 Textile Product Mills ...	Except 314121—Exception is limited to facilities primarily engaged in making Custom drapery for retail sale (previously classified under SIC 5714, Drapery, Curtain, and Upholstery Stores); Except 314129—Exception is limited to facilities primarily engaged in making Custom slipcovers for retail sale (previously classified under SIC 5714, Drapery, Curtain, and Upholstery Stores); Except 314999—Exception is limited to facilities primarily engaged in Binding carpets and rugs for the trade, Carpet cutting and binding, and Embroidering on textile products (except apparel) for the trade (previously classified under SIC 7389, Business Services Not Elsewhere Classified, Embroidering of advertising on shirts and Rug binding for the trade);
315 Apparel Manufacturing	Except 315222—Exception is limited to custom tailors primarily engaged in making and selling men's and boys' suits, cut and sewn from purchased fabric (previously classified under SIC 5699, Miscellaneous Apparel and Accessory Stores (custom tailors)); Except 315223—Exception is limited to custom tailors primarily engaged in making and selling men's and boys' dress shirts, cut and sewn from purchased fabric (previously classified under SIC 5699, Miscellaneous Apparel and Accessory Stores (custom tailors)); Except 315233—Exception is limited to custom tailors primarily engaged in making and selling bridal dresses or gowns, or women's, misses' and girls' dresses cut and sewn from purchased fabric (except apparel contractors) (custom dressmakers) (previously classified under SIC Code 5699, Miscellaneous Apparel and Accessory Stores);
316 Leather and Allied Product Manufacturing	
321 Wood Product Manufacturing	
322 Paper Manufacturing	
323 Printing and Related Support Activities.	Except 323114—Exception is limited to facilities primarily engaged in reproducing text, drawings, plans, maps, or other copy, by blueprinting, photocopying, mimeographing, or other methods of duplication other than printing or microfilming (i.e., instant printing) (previously classified under SIC 7334, Photocopying and Duplicating Services, (instant printing));
324 Petroleum and Coal Products Manufacturing	
325 Chemical Manufacturing.	Except 325998—Exception is limited to facilities primarily engaged in Aerosol can filling on a job order or contract basis (previously classified under SIC 7389, Business Services, NEC (aerosol packaging));
326 Plastics and Rubber Products Manufacturing.	Except 326212—Tire Retreading, (previously classified under SIC 7534, Tire Retreading and Repair Shops (rebuilding));
327 Nonmetallic Mineral Product Manufacturing.	Except 327112—Exception is limited to facilities primarily engaged in manufacturing and selling pottery on site (previously classified under SIC 5719, Miscellaneous Homefurnishing Stores);
331 Primary Metal Manufacturing	
332 Fabricated Metal Product Manufacturing	
333 Machinery Manufacturing	
334 Computer and Electronic Product Manufacturing	Except 334611—Software Reproducing (previously classified under SIC 7372, Prepackaged Software, (reproduction of software)); Except 334612—Exception is limited to facilities primarily engaged in mass reproducing pre-recorded Video cassettes, and mass reproducing Video tape or disk (previously classified under SIC 7819, Services Allied to Motion Picture Production (reproduction of Video));
335 Electrical Equipment, Appliance, and Component Manufacturing.	Except 335312—Exception is limited to facilities primarily engaged in armature rewinding on a factory basis (previously classified under SIC 7694 (Armature Rewinding Shops (remanufacturing));
336 Transportation Equipment Manufacturing	
337 Furniture and Related Product Manufacturing.	Except 337110—Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture custom wood kitchen cabinets and counter tops (previously classified under SIC 5712, Furniture Stores (custom wood cabinets)); Except 337121—Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture custom made upholstered household furniture (previously classified under SIC 5712, Furniture Stores (upholstered, custom made furniture)); Except 337122—Exception is limited to facilities primarily engaged in the retail sale of household furniture and that manufacture nonupholstered, household type, custom wood furniture (previously classified under SIC 5712, Furniture Stores (custom made wood nonupholstered household furniture except cabinets));
339 Miscellaneous Manufacturing.	Except 339113—Exception is limited to facilities primarily engaged in manufacturing orthopedic devices to prescription in a retail environment (previously classified under SIC 5999, Miscellaneous Retail Stores, NEC);

Subsector code or industry code	Exceptions and/or limitations
	Except 339115—Exception is limited to lens grinding facilities that are primarily engaged in the retail sale of eyeglasses and contact lenses to prescription for individuals (previously classified under SIC 5995, Optical Goods Stores (optical laboratories grinding of lenses to prescription)); Except 339116—Dental Laboratories (previously classified under SIC 8072, Dental Laboratories);
111998 All Other Miscellaneous Crop Farming.	Limited to facilities primarily engaged in reducing maple sap to maple syrup (previously classified under SIC 2099, Food Preparations, NEC, Reducing Maple Sap to Maple Syrup);
211112 Natural Gas Liquid Extraction.	Limited to facilities that recover sulfur from natural gas (previously classified under SIC 2819, Industrial Inorganic chemicals, NEC (recovering sulfur from natural gas));
212324 Kaolin and Ball Clay Mining.	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating kaolin and clay (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1455));
212325 Mining	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating clay and ceramic and refractory minerals (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1459));
212393 Other Chemical and Fertilizer Mineral Mining.	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating chemical or fertilizer mineral raw materials (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1479));
212399 All Other Nonmetallic Mineral Mining.	Limited to facilities operating without a mine or quarry and that are primarily engaged in beneficiating nonmetallic minerals (previously classified under SIC 3295, Minerals and Earths, Ground or Otherwise Treated (grinding, washing, separating, etc. of minerals in SIC 1499));
488390 Other Support Activities for Water Transportation.	Limited to facilities that are primarily engaged in providing routine repair and maintenance of ships and boats from floating drydocks (previously classified under SIC 3731, Shipbuilding and Repairing (floating drydocks not associated with a shipyard));
511110 Newspaper Publishers	
511120 Periodical Publishers	
511130 Book Publishers	
511140 Directory and Mailing List Publishers.	Except facilities that are primarily engaged in furnishing services for direct mail advertising including Address list compilers, Address list publishers, Address list publishers and printing combined, Address list publishing, Business directory publishers, Catalog of collections publishers, Catalog of collections publishers and printing combined, Mailing list compilers, Directory compilers, and Mailing list compiling services (previously classified under SIC 7331, Direct Mail Advertising Services (mailing list compilers));
511191 Greeting Card Publishers	
511199 All Other Publishers	
512220 Integrated Record Production/Distribution	
512230 Music Publishers ..	Except facilities primarily engaged in Music copyright authorizing use, Music copyright buying and licensing, and Music publishers working on their own account (previously classified under SIC 8999, Services, NEC (music publishing));
519130 Internet Publishing and Broadcasting and Web Search Portals.	Limited to facilities primarily engaged in Internet newspaper publishing (previously classified under SIC 2711, Newspapers: Publishing, or Publishing and Printing), Internet periodical publishing (previously classified under SIC 2721, Periodicals: Publishing, or Publishing and Printing), Internet book publishing (previously classified under SIC 2731, Books: Publishing, or Publishing and Printing), Miscellaneous Internet publishing (previously classified under SIC 2741, Miscellaneous Publishing), Internet greeting card publishers (previously classified under SIC 2771, Greeting Cards); Except for facilities primarily engaged in web search portals;
541712 Research and Development in the Physical, Engineering, and Life Sciences (except Biotechnology).	Limited to facilities that are primarily engaged in Guided missile and space vehicle engine research and development (previously classified under SIC 3764, Guided Missile and Space Vehicle Propulsion Units and Propulsion Unit Parts), and in Guided missile and space vehicle parts (except engines) research and development (previously classified under SIC 3769, Guided Missile and Space Vehicle Parts and Auxiliary Equipment, Not Elsewhere Classified);
811490 Other Personal and Household Goods Repair and Maintenance.	Limited to facilities that are primarily engaged in repairing and servicing pleasure and sail boats without retailing new boats (previously classified under SIC 3732, Boat Building and Repairing (pleasure boat building));

(c) NAICS codes that correspond to SIC codes other than SIC codes 20 through 39.

Subsector or industry code	Exceptions and/or limitations
212111 Bituminous Coal and Lignite Surface Mining	
212112 Bituminous Coal and Underground Mining	
212113 Anthracite Mining	
212221 Gold Ore Mining	
212222 Silver Ore Mining	

Subsector or industry code	Exceptions and/or limitations
212231 Lead Ore and Zinc Ore Mining	
212234 Copper Ore and Nickel Ore Mining	
212299 Other Metal Ore Mining	
221111 Hydroelectric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221112 Fossil Fuel Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221113 Nuclear Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221119 Other Electric Power Generation	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221121 Electric Bulk Power Transmission and Control	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221122 Electric Power Distribution	Limited to facilities that combust coal and/or oil for the purpose of generating power for distribution in commerce.
221330 Steam and Air Conditioning Supply	Limited to facilities engaged in providing combinations of electric, gas, and other services, not elsewhere classified (N.E.C.) (previously classified under SIC 4939, Combination Utility Services Not Elsewhere Classified.)
424690 Other Chemical and Allied Products Merchant Wholesalers	
424710 Petroleum Bulk Stations and Terminals	
425110 Business to Business Electronic Markets	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
425120 Wholesale Trade Agents and Brokers	Limited to facilities previously classified in SIC 5169, Chemicals and Allied Products, Not Elsewhere Classified.
562112 Hazardous Waste Collection	Limited to facilities primarily engaged in solvent recovery services on a contract or fee basis (previously classified under SIC 7389, Business Services, NEC);
562211 Hazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562212 Solid Waste Landfill	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562213 Solid Waste Combustors and Incinerators	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562219 Other Nonhazardous Waste Treatment and Disposal	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*
562920 Materials Recovery Facilities	Limited to facilities regulated under the Resource Conservation and Recovery Act, subtitle C, 42 U.S.C. 6921 *et seq.*

[FR Doc. E8–4387 Filed 3–5–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 761

[EPA–HQ–RCRA–2008–0123; FRL–8538–6]

RIN 2050–AG42

Polychlorinated Biphenyls: Manufacturing (Import) Exemption for Veolia ES Technical Solutions, LLC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: With certain exceptions, section 6(e)(3) of the Toxic Substances Control Act (TSCA) bans the manufacture, processing, and distribution in commerce of polychlorinated biphenyls (PCBs). For purposes of TSCA, ''manufacture'' is defined to include import into the Customs Territory of the United States (U.S.). TSCA section 6(e)(3)(B) gives EPA the authority to grant petitions to perform these activities for a period of up to 12 months, provided EPA can make certain findings by rule. On November 14, 2006, Veolia ES Technical Solutions, LLC, (Veolia) submitted a petition to EPA to import up to 20,000 tons of PCB waste from Mexico for disposal at Veolia's TSCA-approved facility in Port Arthur, Texas. In this document, EPA is proposing to grant Veolia's petition and soliciting comment on this proposed decision.

DATES: Comments must be received on or before April 21, 2008.

If a hearing is requested on or before April 7, 2008, an informal hearing will be held at a location and on a date to be announced in a future **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–RCRA–2008–0123 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail:* Comments may be sent by electronic mail to: *rcra-docket@epa.gov*, Attention Docket ID No. EPA–HQ–RCRA–2008–0123.
- *Fax:* Comments may be faxed to 202–566–9744, Attention Docket ID No. EPA–HQ–RCRA–2008–0123.
- *Mail:* Comments may be sent to Environmental Protection Agency, EPA Docket Center (EPA/DC), Resource Conservation and Recovery Act (RCRA) Docket, 2822T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, Attention Docket ID No. EPA–HQ–RCRA–2008–0123. Please include a total of two copies.
- *Hand Delivery:* Comments may be hand delivered to the Public Reading Room, EPA West Building, Room 3334, 1301 Constitution Avenue, NW., Washington, DC, Attention Docket ID

No. EPA–HQ–RCRA–2008–0123. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information. Please include a total of two copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–RCRA–2008–0123. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be captured automatically 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 comments. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm*.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the RCRA Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the RCRA Docket is 202–566–0270. Copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: William Noggle, Office of Solid Waste, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 347–8769; e-mail address: *noggle.william@epa.gov*. Mail inquiries may be directed to the Office of Solid Waste (OSW), (5304W), 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action primarily applies to the petitioner, Veolia. However, you may be potentially affected by this action if you process, distribute in commerce, or dispose of PCB waste generated by others, i.e., you are an EPA-approved PCB waste handler. Potentially affected categories and entities include, but are not necessarily limited to:

Categories	NAICS codes	Examples of potentially affected entities
Waste Treatment and Disposal	5622	Facilities that manage PCB waste.
Materials Recovery Facilities	56292	Facilities that manage PCB waste.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this section could also be affected. The North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business may be affected by this action, you should carefully examine the applicability provisions in 40 CFR part 761. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *www.regulations.gov* or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for Preparing Your Comments.* When submitting comments, remember to:

- Identify the rulemaking by docket number and other identifying information (subject heading, **Federal Register** date and page number).
- Follow directions—The agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree, suggest alternatives, and substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible.
- Make sure to submit your comments by the comment period deadline identified.

II. Background

A. What Action Is the Agency Proposing To Take?

In this notice of proposed rulemaking, the Agency is proposing to grant a petition submitted by Veolia ES Technical Solutions., LLC (Veolia) to import PCB waste for disposal. In the absence of an exemption, the import of PCBs is banned by section 6(e)(3) of TSCA. The petition, dated November 14, 2006, is for an exemption to import

up to 20,000 tons of PCB waste from Mexico for disposal at Veolia's TSCA-approved facility in Port Arthur, Texas. Veolia's facility is authorized by EPA under TSCA to dispose of PCBs.

B. What Is the Agency's Statutory Authority for Taking This Action?

Section 6(e) of TSCA, 15 U.S.C. 2605(e), generally prohibits most uses of PCBs after October 11, 1977, the manufacture (which includes import) of PCBs after January 1, 1979, and prohibits the processing and distribution in commerce of PCBs after July 1, 1979. Section 6(e)(3)(A) of TSCA prohibits the manufacture, processing, and distribution in commerce of PCBs, except for the distribution in commerce of PCBs that were sold for purposes other than resale before July 1, 1979. Section 6(e)(1) also authorizes EPA to regulate the disposal of PCBs consistent with the provisions in section 6(e)(2) and (3).

Section 6(e)(3)(B) stipulates that any person may petition the Administrator for an exemption from the prohibition on the manufacture, processing, and distribution in commerce of PCBs. The Administrator may by rule grant an exemption if the Administrator finds that:

(i) An unreasonable risk of injury to health or the environment would not result, and (ii) good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for such polychlorinated biphenyl. (15 U.S.C. 2605(e)(3)(B)(i)–(ii)).

The Administrator may prescribe terms and conditions for an exemption and may grant an exemption for a period of not more than one year from the date the petition is granted. In addition, section 6(e)(4) requires that a rule under section 6(e)(3)(B) be promulgated in accordance with sections 6(c)(2), (3) and (4), which provide for a proposed rule, the opportunity for written comments and an informal public hearing, if requested, and a final rule.

EPA's procedures for rulemaking under section 6 of TSCA are found under 40 CFR Part 750. This part includes Subpart B—Interim Procedural Rules for Manufacturing Exemptions, which describes the required content for manufacturing exemption petitions and the procedures that EPA follows in rulemaking regarding these petitions. These rules are codified at 40 CFR 750.10 through 750.21.

III. Findings Necessary To Grant Petitions

A. No Unreasonable Risk Finding

Before granting an exemption petition, section 6(e)(3)(B)(i) of TSCA requires the Administrator to find that granting an exemption would not result in an unreasonable risk of injury to health or to the environment in the United States. EPA expects a petitioner to demonstrate in its petition that the activity will not pose an unreasonable risk. (See 40 CFR 750.11.)

To determine whether a risk is unreasonable, EPA balances the probability that harm will occur to health or to the environment against the benefits to society from granting or denying each petition. See generally, 15 U.S.C. 2605(c)(1). Specifically, EPA considers the following factors:

1. *Effects of PCBs on human health and the environment.* In deciding whether to grant an exemption, EPA considers the magnitude of exposure and the effects of PCBs on humans and the environment. The following discussion summarizes EPA's assessment of these factors. A more complete discussion of these factors is provided in the preamble to the 1988 PCB proposed rule published in the **Federal Register** of August 24, 1988.

a. *Health effects.* EPA has determined that PCBs cause significant human health effects, including cancer, immune system suppression, liver damage, skin irritation, and endocrine disruption. PCBs exhibit neurotoxicity, as well as reproductive and developmental toxicity. PCBs are readily absorbed through the skin and are absorbed at even faster rates when inhaled. Because PCBs are stored in animal fatty tissue, humans are also exposed to PCBs through ingestion of animal products.

b. *Environmental effects.* Certain PCB congeners are among the most stable chemicals known, and decompose very slowly once they are released into the environment. PCBs are absorbed and stored in the fatty tissue of higher organisms as they bioaccumulate up the food chain through invertebrates, fish, and mammals. Significantly, bioaccumulated PCBs appear to be even more toxic than those found in the ambient environment, since the more toxic PCB congeners are more persistent and thus more likely to be retained. PCBs also have reproductive and other toxic effects in aquatic organisms, birds, and mammals.

c. *Risks.* Toxicity and exposure are the two basic components of risk. EPA has concluded that any exposure of humans or the environment to PCBs may be significant, depending on such factors as the quantity of PCBs involved in the exposure, the likelihood of exposure to humans and the environment, and the effect of exposure. Minimizing exposure to PCBs should minimize eventual risk. EPA has previously determined that some activities, including the disposal of PCBs in accordance with 40 CFR part 761, pose no unreasonable risks. Other activities, such as long-term storage of PCB waste, are generally considered by EPA to pose unreasonable risks.

2. *Benefits and costs.* The benefits to society of granting an exemption vary, depending on the activity for which the exemption is requested. The reasonably ascertainable costs of denying an exemption vary, depending on the individual petition. As discussed in section IV, EPA has taken benefits and costs into consideration when evaluating this exemption petition.

B. Good Faith Efforts Finding

Section 6(e)(3)(B)(ii) of TSCA also requires the Administrator to find that ''good faith efforts have been made to develop a chemical substance which does not present an unreasonable risk of injury to health or the environment and which may be substituted for [PCBs].'' EPA expects a petitioner to demonstrate in its petition why this standard is met. (See 40 CFR 750.11.) EPA considers several factors in determining whether good faith efforts have been made. For each petition, EPA considers the kind of exemption the petitioner is requesting and whether the petitioner can demonstrate that time and effort have been expended to develop or search for a substitute. In each case, the burden is on the petitioner to show specifically what was done to substitute non-PCB material for PCBs or to show why it was not feasible to substitute non-PCBs for PCBs.

To satisfy this finding for requests for an exemption to import PCBs for disposal, a petitioner must show why such activities should occur in the United States and what steps have been taken to develop a substitute. While requiring a petitioner to demonstrate that good faith efforts to develop a substitute for PCBs makes sense when dealing with exemption petitions for traditional manufacture and distribution in commerce, the issue of the development of substitute chemicals seems to have little bearing on whether to grant a petition for exemption that would allow the import into the United States for disposal of PCB waste. However, because section 6(e)(3)(B) allows a petitioner to request an exemption from any of the prohibitions

listed in section 6(e)(3)(A), EPA believes that it is appropriate to apply the standard in a way that is relevant to the particular exemption requested. Therefore, EPA believes that to effectuate Congress' intent, the relevant ''good faith'' issue for an exemption request to import PCBs for disposal is whether the disposal of the waste could and/or should occur outside the United States. (Alternatively, one could read the standard to mean that efforts must have been made to develop substitutes for the PCBs that are in the waste to be imported for disposal, an interpretation that would nearly always be met.)

IV. Proposed Disposition of Pending Exemption Petition

A. Summary of the Petition

On November 14, 2006, Veolia petitioned EPA for a one-year exemption to import from Mexico approximately 20,000 tons of waste containing PCBs at concentrations of 50 or more parts per million (ppm). This material includes both solid and liquid PCB wastes, including electrical equipment (e.g., transformers, capacitors, switches and circuit breakers), dielectric fluids, used oils and solvents containing PCBs, debris (e.g., gloves, rags, small parts, packaging material), compacted empty drums, and contaminated soil. The PCB concentrations of the wastes are between 50 ppm and 500,000 ppm. The PCB waste is currently in temporary storage at customer facilities in Mexico, and would be collected and managed by Veolia's Mexican affiliate RIMSA prior to import. According to the petition, RIMSA operates the only authorized treatment plant and landfill disposal facility in Mexico, as well as eleven transfer stations.

Veolia would truck the PCB waste from the various RIMSA facilities in Mexico to Veolia's TSCA-approved facility in Port Arthur, Texas. The road distance from the Mexican-U.S. border to the Port Arthur facility is approximately 460 miles from either the Brownsville or Laredo entry point. RIMSA would place the waste containing PCBs in drums or other DOT- and EPA-approved containers for shipment. Handling and shipping would include blocking, bracing, over-packing, and inclusion of spill containment devices, as required by applicable transportation regulations. The trucks will meet all DOT hazardous materials transportation standards, including proper placarding and marking, as well as any applicable EPA requirements, e.g., § 761.40(b).

All imported PCB waste would be transported to, and disposed of, at the Veolia Treatment Complex and Incineration Facility, located at Highway 73, West of Taylors Bayou, in Port Arthur, Texas 77640. The incinerator holds a Resource Conservation and Recovery Act (RCRA) permit from the State of Texas for hazardous waste disposal and TSCA authorization from EPA for PCB disposal. USEPA ID #TXD000838896. The 150 million BTU/hr rotary kiln incinerator is 16 feet in diameter and 60 feet long. A secondary combustion chamber destroys volatilized organics. Under TSCA, it is authorized to burn solids, sludges, energetic liquids, lean water and containerized wastes at any PCB concentration. A minimum 99.9999% Destruction Removal Efficiency (DRE) for PCBs is achieved in compliance with TSCA. The facility is permitted to handle up to 150,000 tons per year of RCRA and TSCA waste and auxiliary fuel with hourly constraints on individual feed devices, feed concentrations, and heat releases. In accordance with the incinerator's TSCA approval and RCRA Part B permit, all resulting residues from the process are disposed of in a RCRA Subtitle C landfill permitted to take such waste. The facility also contains an analytical laboratory to test incoming wastes.

1. Information Regarding No Unreasonable Risk Provided by the Petitioner

Veolia asserts in its petition that granting the petition would significantly decrease the probability of health and environmental harm and would benefit society by eliminating PCB-contaminated wastes from storage that could otherwise result in releases to the environment in North America.

Veolia argues that shipment of these PCBs to its Port Arthur TSCA-approved facility would provide the safest, most regulated type of PCB disposal, citing its compliance with DOT regulations and the shipping practices previously described. Veolia notes that EPA has previously concluded that the transportation of PCB waste in accordance with the DOT hazardous materials regulations for PCBs poses no unreasonable risks, citing EPA's statements in the 1996 PCB Import Rule (61 FR 11096, at 11097–11098). Veolia also cites EPA's reference in that rule to DOT statistics that indicated only one serious incident involving PCB transport between January 1, 1990 and November 15, 1994, in comparison to 16,074 incidents involving other hazardous materials during a similar timeframe, including 14 serious incidents involving Class 7 radioactive materials (61 FR at 11098). Veolia states that, in preparation for its petition, it made inquiries at DOT and the American Trucking Association to determine whether more recent statistical data were available, and was advised that such statistical surveys have not been continued because PCBs are a Class 9 material and most research is now concentrated on higher risk classes.

Regarding disposal risk, Veolia notes that the Port Arthur incinerator has provided for the thermal treatment of considerable quantities of PCBs and hazardous wastes, destroying in 2003 approximately 21,000 tons of domestic PCB waste, about 35% of the total hazardous wastes incinerated at the facility. Since Veolia's TSCA disposal authorization was granted in 1992, Veolia maintains it has a very good compliance record. Veolia points to its facility managers' ''open lines of communications'' with EPA and the Texas Commission on Environmental Quality (TCEQ) and their quick and diligent work to resolve any issues that may arise. Veolia references EPA's prior determination that the disposal of PCBs in accordance with the TSCA regulations in 40 CFR part 761 poses no unreasonable risk, citing the PCB Import Rule (61 FR at 11098) and referencing a January 31, 2003, EPA final rule granting a Defense Logistics Agency import petition (68 FR 4934). Veolia notes that the Port Arthur TSCA-approved incinerator meets or exceeds all protective standards in 40 CFR part 761. Veolia notes further that when the import of PCB waste was allowed under the PCB Import Rule [1996–1997], it disposed of a significant volume of PCB waste imported from Mexico at its Port Arthur facility, and that it complied with all TSCA PCB requirements during that process.

In terms of benefits, Veolia states: ''The benefits of disposing of PCBs that are in storage in Mexico are substantial. Continued indefinite storage and lack of disposal capacity in Mexico increase the risk of exposure to RIMSA personnel, to people living in and around the customer facilities where the PCBs are stored, and to the environment, should spills occur due to human error or severe weather, such as hurricanes or earthquakes. Storage containers can deteriorate, increasing the likelihood of PCB exposure to personnel who must monitor such items and repack them if they suspect leakage. Frequent handling creates multiple opportunities for spills or exposure.'' Veolia notes that continued storage of PCBs in Mexico may pose an unreasonable risk to health

or the environment, quoting conclusions made by EPA in support of the 1996 PCB Import Rule:

> EPA believes that PCB wastes which are not disposed of for extended periods of time or which are not disposed of in facilities providing equivalent protection from release to the environment may pose an unreasonable risk of injury to health and the environment. (61 FR 11099)

Veolia then states that PCBs stored outside the United States pose a risk in the United States that can be addressed by disposal at EPA-approved facilities, again quoting EPA:

> Based on the persistence of PCBs in the global environment and EPA's finding that any exposure to human beings or the environment may be significant, EPA believes that the safe disposal of PCBs in approved U.S. facilities poses less risk of injury to health or the environment in the U.S. than the continued presence of PCBs in other countries, since proper disposal in this country provides protection against possible hazards from improper disposal elsewhere. (61 FR 11099)

Finally, Veolia cites EPA's statement that the benefits of disposal in the United States outweigh the risks:

> While PCBs currently in storage or in the environment outside the United States pose less immediate risk of injury to health and the environment in the United States than PCBs in the United States today, they do pose some risk. EPA believes that the benefits of the removal of these PCBs outside the United States outweigh any risks associated with their disposal in TSCA-approved facilities. (61 FR 11098).

Veolia concludes that: ''The benefit of prompt disposal at Veolia's incineration facility in Port Arthur, Texas, outweighs any risk associated with returning the PCB wastes to the U.S. for proper disposal. Granting this petition presents no unreasonable risks and will serve to mitigate or lessen the risk to human health and the environment from continued indefinite storage of the PCB wastes in Mexico.''

2. Information Regarding Good Faith Efforts Provided by the Petitioner

Veolia's petition states that Mexico has no facilities to dispose of PCB wastes above 50 ppm concentration. Specifically, the petition states, ''Mexico does have storage and handling facilities for PCBs, but disposal capacity is simply not available. According to the recent Mexican Environment Minister, Alberto Cardenas, no new sites have been authorized for hazardous waste disposal in the last 15 years. *Daily Environment*, Dec. 10, 2003, page A–8. In Mexico, most organic hazardous wastes are disposed in cement kilns, but PCBs are banned from such disposal, as they are in the United States. Based on the low volume of PCB wastes in the country, there is no economic justification for private companies to build a facility for disposal of PCBs in Mexico.'' Veolia also cites several sources that assert that much hazardous waste in Mexico is improperly tracked and managed.

Veolia also argues that disposal of Mexican PCB wastes in Europe is not a viable alternative: Specifically, the petition states, ''Disposal of the PCB wastes in Europe is not economically sound. In the past, some generators in Mexico have shipped PCBs by ocean carrier across the Atlantic Ocean to overseas facilities, usually in France or Finland. However, such shipments are significantly more expensive than transport to the United States and can pose higher risks because of the additional handling required for intermodal transport (truck to ship to truck). For example, the typical cost of sea transportation for one 40 foot container with a capacity of 76 55-gallon drums from Vera Cruz Port, Mexico, to Rotterdam, Holland, for trans-shipment to France is about $7,000, not including land transportation costs to and from the ports. By comparison, the cost of truck shipment from Monterrey, Mexico, to the Port Arthur facility is about $2,700. Thus, just the transportation cost for overseas shipments is 3 times more expensive.''

B. EPA's Proposed Finding and Decision on the Petition

EPA proposes to grant Veolia's petition, based on the following proposed findings.

1. No Unreasonable Risk Determination

a. *Risks Associated with Disposal at Veolia.* EPA finds generally that the disposal of imported PCB waste at an EPA-approved PCB disposal facility poses no unreasonable risks as these facilities have been approved on the basis of that standard. In addition, risks to human health and the environment associated with the long-term storage of this waste in Mexico far outweigh the risks associated with the requested exemption.

b. *Risks Associated with Transportation.* EPA finds that the transportation of waste under the requested exemption would pose no unreasonable risk if conducted in accordance with all applicable laws and regulations, as described in the petition. As noted above, EPA allows the domestic processing and distribution in commerce of PCBs and PCB items for disposal in compliance with 40 CFR Part 761, and in issuance of the PCB Import for Disposal rule, EPA investigated and sought comment on the risks inherent in the transportation of imported PCB waste, and determined those risks to be insignificant. (61 FR 11096 at 11097). EPA affirmed these conclusions in granting petitions from the Defense Logistics Agency to import PCB waste from Japan in 2003 (68 FR 4934) and 2007 (72 FR 53152). For these and the following reasons, EPA finds that there is no unreasonable risk from the transport of this waste to the United States for disposal:

i. Risk results from a combination of exposure (likelihood, magnitude and duration) and the probability of effects occurring under the conditions of exposure. Because the probability of a transport accident occurring is low, as the DOT data indicate, the likelihood of exposure to PCBs is commensurately low. Consequently, the likelihood of adverse effects to human health or the environment is minimal.

ii. The PCB-containing materials would be packaged in a manner consistent with federal, state, and local regulations addressing the storage and transport of hazardous materials.

iii. Given that PCBs are hazardous and pose a potential risk to health and the environment, and given the exposure likelihood, frequency, and duration are so low that even though PCBs are considered to be highly hazardous, risk (combined exposure and hazard) would not be unreasonable to human health or the environment.

iv. The potential for human health risks are further mitigated by duration of exposure. PCBs are most hazardous following long-term (chronic) exposures. Under the transport scenario proposed, any exposures to humans (i.e., accidental or emergency situation) would be of relatively short duration. Hence, the low probability of exposure occurring combined with the relatively short-term duration of exposure, should one occur, further supports a qualitative conclusion that there is no unreasonable risk to human health.

v. The long-term concern is the potential for accumulation in the ecological environment. In a worst case scenario, where all of the PCBs in a given truck-load would be released due to an unforeseen and highly unlikely catastrophic event during transport, PCB-exposed biological receptors could be adversely affected in the vicinity of the release (and there would be the potential for long-range dispersal). However, this scenario is highly unlikely because it would require a complete failure of all safeguards in place. EPA believes that the alternative of storing the PCBs indefinitely poses

more risk than transport. Further, should an accident occur, emergency response authorities would be invoked to mitigate and/or remediate exposures.

c. *Benefits of Granting This Petition.*

i. *Avoiding the Risks of Long-Term Storage.* EPA believes that granting this petition to import 20,000 tons of waste contaminated with PCBs greater than 50 ppm will benefit the United States and the environment in general in several ways. As Veolia notes, the continued long-term storage of PCB waste in Mexico poses risks of exposure to human health and the environment—risks that can be greatly reduced through the action proposed in this petition.

ii. *Ensuring Proper and Safe Disposal.* Granting this petition will ensure the proper and safe disposal of this PCB waste in Veolia's TSCA-approved disposal facility and eliminate the risk of improper disposal and environmental release in Mexico, with its concomitant cross-border risks to the United States.

iii. *Ensuring the Safety of Mexican Citizens.* EPA considers the reduction of risk to Mexican citizens to be advantageous, especially in light of the United States commitment to work with Mexico (and Canada) toward the virtual elimination of PCBs from the North American environment, as specified in the 1996 North American Regional Action Plan for PCBs under the North American Commission for Environmental Cooperation (CEC).

d. *Conclusion.* For the reasons described above, EPA finds that granting the petition would pose no unreasonable risk of injury to health or the environment.

2. Good Faith Efforts To Find Substitutes Met

EPA asserts that Veolia has demonstrated good faith efforts to identify alternatives to disposal of this PCB waste in the United States. EPA is aware of the lack of adequate PCB disposal capacity in Mexico. While EPA disagrees with Veolia's contention that there is no PCB disposal capacity in Mexico, EPA recognizes that the available disposal capacity is nonetheless very limited in both the quantity and concentration of the PCB waste it can process. For instance, in 1996, the CEC reported that S.D. Myers de México, S.A. de C.V., operates a mobile disposal unit for the treatment of PCB waste, but only up to a concentration of 5,000 ppm and with a capacity of 150 tons a month. (*Status of PCB Management in North America*) S.D. Myers's facility is the only Mexican PCB disposal facility identified by UNEP in 2004 (*Inventory of World-Wide PCB Destruction Capacity, Second Issue*). Attempts to establish large hazardous waste incinerators with the capacity to handle large volumes and high concentrations of PCBs failed in Tijuana in the 1980s (TEESA) and Veracruz in 2005 (Altecin S.A. de C.V.). The fact that Mexican facilities have had to ship high-concentration PCBs overseas to Europe for disposal only highlights the lack of adequate domestic disposal capacity.

EPA believes that the shipment of PCB waste from Mexico to Europe is not a preferable alternative to PCB disposal in the United States. Such trans-Atlantic shipments greatly increase the distances involved in the transportation of this waste, as well as the amount of handling involved in the transfer of waste between ship and trains or truck, and therefore increase the risk that an accidental release of PCBs could occur during transit. Such releases could occur in U.S. waters, as container ships traveling from Mexico to Europe may make port calls along the U.S. coast during their journey. In addition, the high cost of this trans-Atlantic disposal option discourages the prompt removal of PCBs from use and storage, as well as their proper disposal. Reducing the cost of PCB disposal will encourage Mexican PCB equipment owners and PCB waste storers to dispose of these materials by proper means, reducing illegal disposal and its associated risk to human health and the environment.

Given these circumstances, EPA finds that Veolia has made good faith efforts to identify alternatives to this proposed exemption, and the Agency is persuaded that disposal in Mexico or in a third country is not a practicable or preferable alternative for this PCB waste, relative to disposal in the United States.

3. For all of the aforementioned reasons, EPA finds that Veolia has satisfied the exemption criteria of TSCA section 6(e)(3)(B) and proposes to grant this petition. In this rulemaking, EPA is also proposing certain terms and conditions in order to ensure no problems with stranded or returned waste shipments occur. Specifically:

- Veolia must have full financial responsibility for the disposal of any PCB waste imported under this petition; Veolia's financial assurance is detailed in the TSCA storage and disposal approval granted for the Port Arthur facility.
- If necessary, such as in the case of a Port Arthur facility shutdown, Veolia can and will arrange for alternative disposal of this waste at another TSCA-approved disposal facility in the United States; and
- Disposal of the imported PCB waste must occur within one year of import. This condition is based on 40 CFR 761.65(a)(1).

V. References

1. Veolia ES Technical Solutions, LLC Petition from Greig R. Siedor, Vice President and Chief Legal Officer, to EPA, OPPT. Subject: Petition for Import Exemption for PCB Wastes Pursuant to Toxic Substances Control Act section 6(e). November 14, 2006. 9 pp.

2. EPA, OPPT. Polychlorinated Biphenyls; Manufacturing (Import) Exemptions. Final Rule. EPA–HQ–OPPT–2005–0042. **Federal Register** (72 FR 53152, September 18, 2007) (FRL–8143–4). Available at *http://www.epa.gov/fedrgstr*.

3. EPA, OPPT. Polychlorinated Biphenyls; Manufacturing (Import) Exemptions. Final Rule. EPA–HQ–OPPT–2002–0013. **Federal Register** (68 FR 4934, January 31, 2003) (FRL–7288–6). Available at *http://www.epa.gov/fedrgstr*.

4. EPA, OPPTS. Disposal of Polychlorinated Biphenyls; Import for Disposal. Final Rule. **Federal Register** (61 FR 11096, March 18, 1996) (FRL–5354–8). Available at *http://www.epa.gov/fedrgstr*.

5. EPA, Office of Toxic Substances (OTS). Polychlorinated Biphenyls; Manufacturing, Processing, Distribution in Commerce Exemptions. Proposed Rule. OPTS–66008F. **Federal Register** (53 FR 32326, August 24, 1988).

6. Commission for Environmental Cooperation. *Status of PCB Management in North America.* ISBN 0–921894–28–7, (1996): 158 pp. Available at: *www.cec.org*.

7. UNEP. Inventory of World-Wide PCB Destruction Capacity, Second Issue, (December 2004): 78 pp. Available at: *http://www.chem.unep.ch/pops/*.

8. Commission for Environmental Cooperation/PCB Task Force. *PCB Regional Action Plan; Sound Management of Chemicals Project*, (December 1996): 25 pp. Available at: *www.cec.org*.

VI. Statutory and Executive Order Reviews

A. Executive Order 12866 (Regulatory Planning and Review)

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

B. Paperwork Reduction Act

This action does not impose any new information collection burden. EPA is proposing to grant this petition by Veolia to import PCBs for disposal at its Port Arthur facility. Veolia would then be subject to the existing EPA regulations regarding the disposal of PCBs in 40 CFR part 761. However, the Office of Management and Budget (OMB) has previously approved the information collection requirements

contained in the existing regulations 40 CFR Part 761 under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* and has assigned OMB control number 2070–0112, EPA ICR number 1446.08. A copy of the OMB approved Information Collection Request (ICR) may be obtained from the Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1682.

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

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

C. Regulatory Flexibility Act

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

For purposes of assessing the impacts of today's rule on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the impacts of today's proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. This proposed rule will not impose any requirements on small entities. EPA is proposing to grant this petition submitted by Veolia to import PCBs for disposal at its Port Arthur facility. Only Veolia, which is not a small entity, would be regulated by this proposed rule. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

EPA has determined that this rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. EPA is proposing to grant a petition submitted by Veolia to import PCBs for disposal at its Port Arthur facility. If the petition is granted, and Veolia imports PCBs for disposal, Veolia would be required to comply with the existing regulations on PCB disposal at 40 CFR Part 761. The only mandate that would be imposed by this proposal would be imposed on Veolia. In addition, EPA has determined that this proposal would not significantly or uniquely affect small governments. The Veolia petition states that the PCBs will be disposed of in Veolia's TSCA-approved facility. No new facilities, which could affect small government resources if a permit is required, are contemplated. EPA believes that the disposal of PCBs in a previously approved facility in the amount specified in this proposal would have little, if any, impact on small governments. Thus, today's rule is not subject to the requirements of sections 202 and 205 of the UMRA.

E. Executive Order 13132 (Federalism)

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

This proposed rule does not have federalism implications. It will 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. EPA's proposal would grant a petition submitted by Veolia to import PCBs and dispose of them in its TSCA-approved disposal facility in Port Arthur, Texas, in accordance with existing regulations. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this

proposed rule from State and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. EPA's proposal would grant a petition submitted by Veolia to import PCBs and dispose of them in its TSCA-approved disposal facility in Port Arthur, Texas, in accordance with existing regulations. EPA does not believe that this activity will have any impacts on the communities of Indian tribal governments. Thus, Executive Order 13175 does not apply to this rule. However, in the spirit of Executive Order 13175, EPA specifically solicits comment on this proposed rule from tribal officials.

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

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. EPA is proposing to grant the petition from Veolia to import PCBs and dispose of them at its TSCA-approved PCB disposal facility in Port Arthur, Texas, in accordance with existing regulations. Because the facility will be operating within their EPA-approved quantities, the risk for storage and disposal of PCB-containing waste is already assumed by the surrounding communities.

The public is invited to submit or identify peer-reviewed studies and data, of which the agency may not be aware, that assessed results of early life exposure to PCBs.

H. Executive Order 13211 (Energy Effects)

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

I. The National Technology Transfer and Advancement Act

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

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards.

EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially-applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

J. Executive Order 12898 (Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations)

Executive Order 12898, (59 FR 7629, February 16, 1994), establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA is committed to addressing environmental justice concerns and has assumed a leadership role in environmental justice initiatives to enhance environmental quality for all citizens of the United States. The Agency's goals are to ensure that no segment of the population, regardless of race, color, national origin, income, or net worth bears disproportionately high and adverse human health and environmental impacts as a result of EPA's policies, programs, and activities. Our goal is to ensure that all citizens live in clean and sustainable communities. In response to Executive Order 12898, and to the concerns voiced by many groups outside the Agency, EPA's Office of Solid Waste and Emergency Response (OSWER) formed an Environmental Justice Task Force to analyze the array of environmental justice issues specific to waste programs and to develop an overall strategy to identify and address these issues (OSWER Directive No. 9200.3–17).

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. EPA asserts that no environmental justice issues are associated with this proposed rule. Veolia's Port Arthur facility has been approved by EPA to dispose of PCB waste since 1992 to store and treat PCBs, ensuring protection of human health and environment. The proposed rule also will not allow Veolia to import more waste than the Port Arthur facility is approved to store and treat. Therefore, the proposal will not result in any disproportionately negative impacts on minority or low-income communities.

Lists of Subjects in 40 CFR Part 761

Environmental protection, Hazardous substances, Labeling, Polychlorinated biphenyls, Reporting and recordkeeping requirements.

Dated: February 28, 2008.

Susan Parker Bodine,

Assistant Administrator for Solid Waste and Emergency Response.

Therefore, title 40, chapter I of the Code of Federal Regulations is proposed to be amended as follows:

PART 761—[AMENDED]

1. The authority citation for part 761 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2611, 2614, and 2616.

Subpart E—Exemptions

2. Section 761.80 is amended by adding paragraph (k) to read as follows:

§ 761.80 Manufacturing, processing and distribution in commerce exemptions.

* * * * *

(k) The Administrator grants Veolia ES Technical Solutions, LLC's November 14, 2006 petition for an exemption for 1 year to import up to 20,000 tons of PCB waste from Mexico for disposal at Veolia's TSCA-approved facility in Port Arthur, Texas. This petition is subject to the following terms and conditions:

(1) Veolia accepts complete financial liability for the transportation, storage and disposal of all PCB waste imported into the United States under this petition.

(2) In the eventuality that Veolia is unable to dispose of any PCB waste imported under this petition at its Port Arthur facility, Veolia shall arrange for the disposal of that PCB waste in an alternative TSCA-approved facility in the United States.

(3) For purposes of compliance with the 1 year storage for disposal limit under § 761.65(a), the date of removal from service for disposal for PCB waste imported under this petition is the date the PCB waste enters the United States.

* * * * *

[FR Doc. E8–4429 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 99–25; FCC 07–204]

Creation of a Low Power Radio Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Commission seeks comment on whether additional low power FM (LPFM) service and technical rule changes are warranted, including: establishing a second-adjacent channel waiver standard; implementing a licensing presumption that would protect certain operating LPFM stations from subsequently proposed community of license modifications; imposing an obligation on full-service station applicants to assist an LPFM station potentially impacted by implementation of its new station or modification proposal; creating contour protection-based licensing standards for LPFM stations; and establishing LPFM–FM translator protection priorities.

DATES: Comments for this proceeding are due on or before April 7, 2008; reply comments are due on or before April 21, 2008.

ADDRESSES: You may submit comments, identified by MB Docket No. 99–25, 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 additional information on this proceeding, contact Holly Saurer, *Holly.Saurer@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 (Second Further Notice)*, FCC 07–204, adopted on November 27, 2007, and released on December 11, 2007. 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).

Initial Paperwork Reduction Act of 1995 Analysis

This document contains information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), 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 information collection requirements contained in this proceeding. The Commission will publish a separate document in the **Federal Register** at a later date seeking these comments. 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 seek specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Summary of the Notice of Proposed Rulemaking

1. The Commission adopts a series of wide-ranging rule changes to strengthen and promote the long-term viability of the LPFM service, and the localism and diversity goals that this service is intended to advance. We also recommend to Congress that it remove the requirement that LPFM stations protect full-power stations operating on third adjacent channels. We intend to resolve the following issues within six months. The next filing window for a non-tabled aural broadcast service will be for new LPFM stations. We plan to open this window after the Commission has resolved the issues raised in this *Second Further Notice*, and has resolved other issues that could significantly impact the availability of future spectrum for LPFM applicants, including the disposal of substantially all of the applications filed in the recent NCE FM window.

2. Based on numerous meetings with LPFM service proponents, filings, and presentations at various forums and hearings convened by the Commission over the past two years, we believe that it is appropriate to consider whether additional LPFM service and technical rule changes are warranted. We seek comment on the several issues set forth below.

A. Section 73.807 Second-Adjacent Channel Waiver Standard

3. The *Third Report and Order*, 73 FR 3202, January 17, 2007, details an interim processing policy that the Commission will use to consider § 73.807 of the rules waiver requests from certain LPFM stations. As set forth more fully therein, when implementation of a full-service station community of license modification would result in an increase in

interference caused to the LPFM station or its displacement, the LPFM station may seek a second-adjacent channel short spacing waiver in connection with an application proposing operations on a new channel. We seek comment generally on whether to codify the waiver and processing policies set forth in the *Third Report and Order*. Would modifications to these policies better balance the interests of LPFM and full-service stations? Should the procedures be narrowed to apply only when the LPFM station is subject to displacement pursuant to § 73.809 of the rules? Should the rules provide a deadline for the filing of the LPFM alternate channel application and waiver request and, if so, what should the deadline be? Should waivers be limited to second-adjacent channel short-spacings? Should waivers be granted only when the LPFM station can demonstrate no actual interference due to lack of population, terrain, or other factors, as we allow in the FM translator service? Should continued LPFM operations be subject to the resolution of all bona fide actual interference complaints? Should the ''encroaching'' full-service station be responsible for providing technical assistance and assuming financial responsibility for all direct expenses associated with resolving all bona fide actual interference complaints, e.g., the purchase of radio filters, etc.? Do the orders to show cause procedures fully protect impacted stations' due process rights? Would additional procedures help ensure that the Commission has a full record on which to evaluate waiver requests? Should these procedures be expanded to include co- and first-adjacent channel situations? Finally, we seek comment on whether rule changes are warranted to provide additional flexibility to propose LPFM station modifications.

B. LPFM Station Displacement

4. As detailed more fully in the *Third Report and Order*, the Commission is adopting a processing policy to evaluate on a going forward basis each community of license modification proposal that would result in the displacement of an LPFM station or stations. We seek comment generally on whether the Commission should amend § 73.809 of the rules to establish a licensing presumption that would protect certain operating LPFM stations from subsequently proposed community of license modifications. We also seek comment on each aspect of the current processing policy. Specifically, should the presumption be limited to those LPFM stations that have regularly provided eight hours of locally originated programming daily? What criteria should the Commission use to determine whether an LPFM station has ''regularly'' satisfied the eight-hour programming requirement? Should the presumption be extended to protect LPFM stations against subsequently filed petitions for rulemaking for new FM allotments and/or modification applications not proposing community of license changes? Finally, we seek comment on other approaches to resolve LPFM station displacement conflicts and the reasons why such alternative approaches would more appropriately balance the interests of these services.

C. Obligations of Full-Service New Station and Modification Applicants to Potentially Impacted LPFM Stations

5. Currently, a full-service station applicant has no obligation to assist an LPFM station potentially impacted by implementation of its new station or modification proposal. We believe that this policy is inconsistent with the comity and respect to which LPFM stations are entitled and with certain reimbursement policies which the Commission has established for full-service stations which are involuntarily required to change channels. As proposed in part by the Station Resource Group, we tentatively conclude that an applicant for a new or modified station should be required to assume certain technical, financial, and notice obligations if implementation of the proposal could impact an LPFM station. Specifically we tentatively conclude that in these circumstances, the full-service station should be required to provide notice of its application filing to the LPFM station. As part of its application filing, the full-service station should be required to include the results of its search for an alternate LPFM channel. It should also be required to cooperate in good faith with the LPFM station in developing the best technical approach, including a possible LPFM site relocation, to ameliorate the interference and/or displacement impact of its proposal. In addition, the ''encroaching'' full-service station should be responsible for certain expenses relating to any LPFM station channel change and/or transmitter site change necessitated by the full-service station proposal. We tentatively conclude such expenses should be limited to the physical changes in the LPFM station's transmission system. We seek comment on each of these tentative conclusions and on other measures to ensure the equitable treatment of LPFM stations.

6. We believe that these procedures should apply if the LPFM authorization was issued or a pending LPFM facility application was filed prior to the filing of a full-service station application for construction permit or license, including one that proposes a community of license modification. We tentatively conclude that these procedures should be limited to those situations in which implementation of the full-service proposal would result in the full-service and LPFM stations operating at less than the minimum distance separations set forth in § 73.807 of the rules and could result in either an increase in interference caused to the LPFM station or the permanent displacement of the LPFM station. We seek comment on these proposed limitations on the scope and extent of these remedial procedures.

D. Contour Protection-Based Licensing Standards for LPFM Stations

7. An LPFM new station or modification application must protect all existing stations and prior filed applications on the basis of distance separations set forth in § 73.807 of the rules. This methodology, used in connection with virtually all FM non-reserved band full-service station licensing, provides a straight-forward standard for determining technical acceptability. As a result of this methodology's simplicity, the Commission was able to provide an on-line ''channel finder'' utility prior to the first series of LPFM filing windows. This tool enabled unsophisticated potential applicants to identify without expense available FM spectrum in their local communities.

8. Prometheus and other LPFM advocates argue that the Commission should adopt a more flexible ''contour'' methodology for the licensing of LPFM stations. Although full-service NCE FM stations are licensed pursuant to a contour methodology, it appears that these parties are urging the Commission to permit LPFM station licensing pursuant to the FM translator protection rule, § 74.1204 of the rules. As demonstrated by the filing of over 13,000 applications in the 2003 window for new non-reserved band FM translator construction permits, adoption of this standard would vastly expand LPFM licensing opportunities throughout the nation and create the possibility of locating new LPFM stations in a number of major and spectrum-congested markets.

9. The flexibility of FM translator licensing is based on four key factors. Translators, like LPFM stations, may only operate with limited power. This necessarily limits distances from the proposed station's transmitter site to its

co- and adjacent-channel interfering contours. Secondly, a protection methodology based on contours is, itself, a more flexible licensing approach. Although contour and distance separation requirements are derived from common principles, the contour methodology requires applicants to protect actual—rather than class maximum—facilities. Thus, modifying our rules to permit LPFM applicants to ''engineer in'' new proposals on the basis of contour protection standards would result in new licensing opportunities.

10. The two other factors are closely tied to the fact that FM translators are licensed on a secondary basis. As a secondary service, translators are licensed without regard to the extent of received interference they would receive. LPFM stations also receive the benefit of this flexibility. The fourth factor is the § 74.1204(d) exception to the § 74.1204(a) of the rules contour methodology. Under paragraph (d) of that section, the general FM translator contour overlap provisions will not apply ''if it can be demonstrated that no actual interference will occur due to intervening terrain, lack of population or such other factors as may be applicable.'' For many years, the Commission has permitted FM translator applications to use the D/U signal strength ratio methodology to establish the area of predicted interference and to demonstrate the ''lack of population'' within this area to satisfy the requirements under § 74.1204(d) of the rules.

11. However, the FM translator technical rules include a second and essential requirement: The inflexible obligation to resolve all bona fide actual interference complaints pursuant to § 74.1203(a) of the rules. A translator station that cannot resolve all complaints must suspend operations. The two rules operate in tandem. The flexibility of § 74.1204(d) of the rules is backstopped by the permanent § 74.1203(a) secondary service obligation to resolve actual interference complaints.

12. We tentatively conclude that the licensing of LPFM stations pursuant to the standards of § 74.1204 of the rules or some other ''contour-based'' methodology is in the public interest. We tentatively conclude that an LPFM station licensed under this standard would be required to resolve all actual interference complaints or cease operations. We seek comment on this tentative conclusion. We also tentatively conclude not to allow the use of alternative propagation methodologies, such as Longley Rice, to show lack of interference. These showings impose enormous staff processing burdens and are typically subject to opposition. Additionally, as demonstrated by the significant number of FM translator proposals submitted in the 2003 filing window, we believe that permitting D/U ratio showings to establish ''lack of population'' subject to interference provides ample licensing flexibility. We seek comment specifically on whether it is appropriate to license LPFM stations to community groups, which often have limited resources and technical expertise, under a standard that subjects such stations to the constant risk of being forced off the air if they cannot resolve interference complaints promptly. We also seek comment on whether it is appropriate to adopt an LPFM technical licensing regime that would require the use of consulting engineers. We tentatively conclude that § 73.807 of the rules should be retained if a ''contour'' rule is adopted in this proceeding. Stations holding licenses issued pursuant to the current Rule would not be required to resolve actual interference complaints except in accordance with the provisions of § 73.809 of the rules. We seek comment on this approach which would provide differing levels of protection to operating LPFM stations based on each station's choice of technical processing standards.

E. LPFM—FM Translator Protection Priorities

13. The *Third Report and Order* does not reach a conclusion on the ''co-equal'' status between LPFM stations and FM translator stations. Under the rules for these services, a first-filed LPFM or FM translator application must be protected by all subsequently filed LPFM and FM translator applications. Localism, diversity and competition remain our key radio broadcasting goals. We find that it would be useful to develop a better record on whether and how these goals would be advanced by altering the priorities between these two services. We seek comment on this issue. In particular, we seek comment on whether we should distinguish between translators that are fed by satellite and those that received and retransmit programming delivered terrestrially. We also seek comment on the extent to which providing priority to LFPM stations could impact established listening patterns or disrupt established translator signal delivery systems that NCE broadcasters rely on extensively to disseminate programming. We also seek comment on the Prometheus proposal to limit the number of translator stations that would have priority over subsequently applied for LPFM facilities. Prometheus proposes to limit priority status to 25 translator stations for each originating station but would not consider ''full power repeaters'' as originating stations. We seek comment both on this proposed cap and Prometheus' proposed definition of ''originating station,'' for the purpose of applying this cap. We also seek comment on whether such an approach is administratively feasible given the fact that an FM translator may without prior consent or notice to the Commission change its primary station.

II. Administrative Matters

A. Filing Requirements

14. *Ex Parte Rules.* The *Second Further Notice* in this proceeding will be treated as a ''permit-but-disclose'' subject to the ''permit-but-disclose'' requirements under § 1.1206(b) of the 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 § 1.1206(b).

15. *Comments and Reply Comments.* Pursuant to §§ 1.415 and 1.419 of the rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed 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.

People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

16. *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. Persons with disabilities who need assistance in the FCC Reference Center may contact Bill Cline at (202) 418–0267 (voice), (202) 418–7365 (TTY), or *bill.cline@fcc.gov*. These documents also will be available from the Commission's Electronic Comment Filing System. Documents are available electronically in ASCII, Word 97, and Adobe Acrobat. Copies of filings in this proceeding may be obtained from Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554; they can also be reached by telephone, at (202) 488–5300 or (800) 378–3160; by e-mail at *fcc@bcpiweb.com*; or via their Web site at *http://www.bcpiweb.com*. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0531 (voice), (202) 418–7365 (TTY).

B. Regulatory Flexibility Analysis

17. *Initial Regulatory Flexibility Analysis.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' 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). By the issuance of this *Second Further Notice*, we seek comment on the impact our suggested proposals would have on small business entities. The complete initial regulatory flexibility analysis is attached.

C. Additional Information

18. For additional information on this proceeding, please contact Peter Doyle, Audio Division, Media Bureau, at (202) 418–2700, or Holly Saurer, Policy Division, Media Bureau, at (202) 418–7283.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended, the Commission has prepared this Initial Regulatory Flexibility Analysis of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Second Further Notice*. 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 Notice*. The Commission will send a copy of this entire *Second Further Notice*, including this IRFA, to the Chief Counsel for Advocacy of the SBA. In addition, the *Second Further Notice* and the IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need For, and Objectives of, the Proposed Rules

The *Second Further Notice* has been initiated to obtain comments concerning proposed LPFM service and technical rule changes to address the potential interference to, or displacement of, certain LPFM stations caused by subsequently implemented full-service station community of license modifications. Specifically the *Second Further Notice* recommends that Congress remove the requirement that LPFM stations protect full service stations operating on third-adjacent channels. It seeks comment on whether to modify the LPFM technical rules to codify the second-adjacent channel waiver and displacement policies adopted in the *Third Report and Order*. It also tentatively concludes that when implementation of a full-service station facility proposal would impact an LPFM station, the full-service station would be required to provide the LPFM station notice of its application filing, provide technical assistance in identifying alternative channels, and reimbursement for any resulting LPFM facility modifications.

The *Second Further Notice* tentatively concludes that the LPFM technical rules should be modified to permit the licensing of LPFM stations by using a contour, as opposed to a distance separation, methodology in order to expand LPFM station licensing opportunities. It also tentatively concludes that the Commission should retain as an alternate licensing scheme the current LPFM distance separation rule in the event that a contour rule is adopted.

Finally, the *Second Further Notice* seeks additional comment on the issue of whether the Commission should retain the current ''co-equal'' status between the LPFM and FM translator services.

The Commission believes that adoption of these proposed rule changes will strengthen and promote the long-term viability of the LPFM service, and the localism and diversity goals that this service is intended to advance by streamlining and clarifying the process by which LPFM stations can resolve

potential interference issues with full-power stations.

B. Legal Basis

The authority for this *Second Further Notice* is contained in sections 1, 2, 4(i), 303, 403 and 405 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, and 403.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

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 proposed rules. The RFA generally defines the term ''small entity'' as encompassing the terms ''small business,'' ''small organization,'' and ''small governmental entity.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' 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 SBA.

LPFM Radio Stations. The proposed rules and policies potentially will apply to all low power FM radio broadcasting licensees and potential licensees. The SBA defines a radio broadcasting station that has $6.5 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. As of the date of release of this *Second Further Notice,* the Commission's records indicate that more than 1,286 LPFM construction permits have been granted. Of those permits, approximately 809 stations are on the air, serving mostly mid-sized and smaller markets. It is not known how many entities ultimately may seek to obtain low power radio licenses. Nor do we know how many of these entities will be small entities. We expect, however, that due to the small size of low power FM stations, small entities would generally have a greater interest than large ones in acquiring them.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

None.

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

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.

In this *Second Further Notice,* the Commission (1) recommends that Congress remove the requirement that LPFM stations protect full-service stations operating on third-adjacent channels; (2) seeks comment on whether to modify the LPFM technical rules to codify the second-adjacent channel waiver and displacement policies adopted in the *Third Report and Order;* (3) tentatively concludes that when implementation of a full-service station facility proposal would impact an LPFM station, the full-service station would be required to provide the LPFM station notice of its application filing, provide technical assistance in identifying alternative channels, and reimbursement for any resulting LPFM facility modifications; (4) tentatively concludes that the LPFM technical rules should be modified to permit the licensing of LPFM stations by using a contour, as opposed to a distance separation, methodology in order to expand LPFM station licensing opportunities, and (5) tentatively concludes that the Commission should retain as an alternate licensing scheme the current LPFM distance separation rule in the event that a contour rule is adopted.

In light of changed circumstances since the Commission last considered the issue of protection rights for LPFM stations from subsequently authorized full-service stations, the Commission found it necessary to consider these rule changes to avoid the potential loss of LPFM stations. The Commission considered maintaining the status quo, but rejected this idea because it would create an inappropriate burden on LPFM stations by allowing the issue of interference caused by encroaching full-service stations to go unresolved. By contrast, the *Second Further Notice* proposes a codified approach to resolving interference issues with encroaching full-service stations, which will, in turn, allow more LPFM stations to remain on-the-air.

LPFM service has created and will continue to create significant opportunities for new small businesses by allowing small businesses to develop LPFM service in their communities. In addition, the Commission generally has taken steps to minimize the impact on existing small broadcasters. To the extent that the *Second Further Notice* imposes any burdens on small entities, these burdens are only incidental to the benefits conferred by the creation of a set of rules that would allow LPFM stations to resolve potential interference and/or displacement conflicts with encroaching full-service FM stations by making the requisite showings under the proposed rules.

F. Federal Rules Which Duplicate, Overlap, or Conflict With the Commission's Proposals

None.

List of Subjects in 47 CFR Part 73

Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–4456 Filed 3–5–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R1–ES–2007–0006; 92210–1117–0000–B4]

RIN 1018–AU93

Endangered and Threatened Wildlife and Plants; Revised Proposed Designation of Critical Habitat for 12 Species of Picture-Wing Flies From the Hawaiian Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of reopening of public comment period, and notice of public hearings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period and the scheduling of public hearings on the revised proposed rule to designate critical habitat for 12 species of Hawaiian picture-wing flies (*Drosophila aglaia, D. differens, D. hemipeza, D. heteroneura, D.*

montgomeryi, D. mulli, D. musaphilia, D. neoclavisetae, D. obatai, D. ochrobasis, D. substenoptera, and *D. tarphytrichia*) on the islands of Hawaii, Kauai, Maui, Molokai, and Oahu, under the Endangered Species Act of 1973, as amended (Act). The reopened comment period will provide the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties with an additional opportunity to submit written comments on the revised proposed rule. Comments previously submitted need not be resubmitted as they have already been incorporated into the public record and will be fully considered in any final decisions.

DATES: *Written Comments:* We will accept comments and information until April 25, 2008, or at the public hearings. Any comments received after the closing date may not be considered in the final decision on the designation of critical habitat.

Public Hearings: Two public hearings will be held, one on the island of Hawaii on April 8, 2008, from 7 p.m. to 8:30 p.m; and one on Oahu on April 10, 2008, from 7 p.m. to 8:30 p.m. An informal informational session will precede each hearing from 5 p.m. to 6:30 p.m.

ADDRESSES: *Written Comments:* You may submit comments and materials concerning the revised proposed rule 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–AU93; 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 accept written comments at the public hearing. 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).

Public Hearings: Two public hearings will be held, one on the island of Hawaii at Hilo Hawaiian Hotel, Mala Ikena Room, 71 Banyan Drive, Hilo, HI 96720; and one on the island of Oahu at Queen Kapiolani Hotel, Queen's Room, 2nd Floor, 150 Kapahulu Avenue, Honolulu, HI 96815.

FOR FURTHER INFORMATION CONTACT: Patrick Leonard, Field Supervisor, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Blvd., Room 3–122, Honolulu, HI 96850; telephone 808–792–9400; facsimile 808–792–9581. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments Solicited

We intend that any final action resulting from this revised proposal will be as accurate and as effective as possible. Therefore, we solicit comments or suggestions on this revised proposed rule from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 *et seq.*), including whether the benefit of designation is outweighed by the threats to each species caused by their respective designations such that the designation of critical habitat is not prudent;

(2) Specific information on:

- The physical and biological features that are essential to the conservation of the 12 Hawaiian picture-wing flies and why;
- The amount and distribution of *Drosophila aglaia, D. differens, D. hemipeza, D. heteroneura, D. montgomeryi, D. mulli, D. musaphilia, D. neoclavisetae, D. obatai, D. ochrobasis, D. substenoptera,* and *D. tarphytrichia* habitat;
- What areas occupied at the time of listing and that contain the features essential for the conservation of each of the species we should include in their respective designations and why;
- What areas not occupied at the time of listing are essential to the conservation of each of the species and why;

(3) Land use designations and current or planned activities in the areas being proposed as critical habitat and their possible impacts on proposed critical habitat for each species;

(4) Any foreseeable economic, national security, or other potential impacts resulting from the revised proposed designation and, in particular, any impacts on small entities, and the benefits of including or excluding areas that exhibit these impacts;

(5) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments;

(6) Information on management plans and partnerships, including: (a) The benefits provided by a management plan; (b) how the plan addresses the physical and biological features in the absence of designated critical habitat; (c) the specific conservation benefits to the 12 Hawaiian picture-wing flies; (d) the certainty of implementation of the management plans; and (e) the benefits of excluding from the critical habitat designation the areas covered by the management plan. We are particularly interested in knowing how partnerships may be positively or negatively affected by a designation, or through exclusion from critical habitat, and costs associated with the designation; and

(7) Our proposed exemption of 78 acres (ac) (31 hectares (ha)) of lands currently managed under the U.S. Army's Oahu Integrated Natural Resources Management Plan (INRMP), and whether this INRMP provides a benefit to the species and, therefore, exempts these lands from designation.

You may submit your comments and materials concerning the revised 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 accept written comments at the public hearings. 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.

We will post your entire comment-including your personal identifying information—on *http://www.regulations.gov.* If you provide personal identifying information in addition to the required items specified in the previous paragraph, 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.

Comments and materials we receive, as well as supporting documentation we used in preparing the revised proposed rule, will be available for public inspection on *http://www.regulations.gov,* or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Comments and information submitted during the initial comment period on the revised proposed rule need not be resubmitted as they will be incorporated

into the public record as part of that comment period and will be fully considered in preparation of the final rule.

Background

On November 28, 2007, we published a revised proposed rule in the **Federal Register** (72 FR 67428) to designate critical habitat for 12 Hawaiian picture-wing flies. Several of the critical habitat units overlap, and the revised proposed designation totals 9,238 ac (3,738 ha) within 32 occupied units on the islands of Hawaii, Kauai, Maui, Molokai, and Oahu. Of these lands, we are exempting 78 ac (31 ha) of land from the proposed critical habitat revision under section 4(a)(3)(B)(i) of the Act that are covered by the U.S. Army Garrison Hawaii Oahu Training Areas Natural Resource Management (Final Report, August 2000) and the Oahu Integrated Natural Resource Management Plan 2002–2006 (Army 2000) which has been determined to provide a benefit for the species.

An economic analysis identifying estimated impacts associated with the revised proposed critical habitat designation for the 12 Hawaiian picture-wing flies is being developed. When this analysis is completed, we will provide a separate notice informing the public of its availability and the opportunity for public comment.

Critical habitat is defined in section 3(5)(A) of the Act as:

(1) The specific areas within the geographical area occupied by the species, at the time of listing in accordance with the Act, on which are found those physical or biological features:

(a) Essential to the conservation of the species and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by the species at the time of listing if the Secretary determines that those areas are essential for the conservation of the species.

For each species, if the revised proposed critical habitat designation is finalized, section 7(a)(2) of the Act would require that Federal agencies ensure that actions they fund, authorize, or carry out are not likely to jeopardize the continued existence of the species or result in the destruction or adverse modification of critical habitat.

Section 4(b)(2) of the Act requires that we designate or revise critical habitat on the basis of the best scientific and commercial data available, after taking into consideration economic, national security, and any other relevant impacts of specifying any particular area as critical habitat.

Public Hearings

Section 4(b)(5)(E) of the Act requires a public hearing be held if any person requests it within 45 days of the publication of a proposed rule. In response to requests from the public, the Service will conduct two public hearings for this critical habitat proposal on the dates and at the addresses and times identified in the **DATES** and **ADDRESSES** sections above.

Persons wishing to make an oral statement for the record are encouraged to provide a written copy of their statement and present it to us at the hearing. In the event there is a large attendance, the time allotted for oral statements may be limited. Oral and written statements receive equal consideration. There are no limits on the length of written comments submitted to us. If you have any questions concerning the public hearing, please contact the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Persons needing reasonable accommodations in order to attend and participate in the public hearings should contact Mike Richardson, Pacific Islands Fish and Wildlife Office, at 808–792–9400 as soon as possible. In order to allow sufficient time to process requests, please call no later than one week before the hearing date. Information regarding this notice is available in alternative formats upon request.

Author

The author of this document is the staff of the Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 22, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E8–4317 Filed 3–5–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[FWS–R1–ES–2008–0033; 92210–1117–0000–B4]

RIN 1018–AU91

Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for the Marbled Murrelet (Brachyramphus marmoratus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; finding that the revision of critical habitat should not be made.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), find that the proposed revision of critical habitat for the marbled murrelet (*Brachyramphus marmoratus*) pursuant to the Endangered Species Act of 1973, as amended, (Act), should not be made. On September 12, 2006, (71 FR 53840), we proposed to revise the May 24, 1996, designation of critical habitat for the marbled murrelet in Washington, Oregon, and California (61 FR 26256). Under the proposed revision, 3,590,642 acres (ac) (1,363,300 hectares (ha)) were proposed as critical habitat, with 3,368,950 ac (1,363,300 ha) of these lands proposed for exclusion under section 4(b)(2) of the Act. Due to uncertainties regarding Bureau of Land Management (BLM) revisions to its District Resource Management Plans in western Oregon, we have determined that it is not appropriate to revise the designation of critical habitat for the marbled murrelet at this time, as discussed below. Therefore, in accordance with the provisions of section 4(b)(6)(A)(i)(II) of the Act, we find that the proposed revision of critical habitat for the marbled murrelet should not be made. Accordingly, the May 24, 1996, final rule designating critical habitat for the marbled murrelet remains in effect (61 FR 26256).

FOR FURTHER INFORMATION CONTACT: Ken Berg, Field Supervisor, Western Washington Field Office, 510 Desmond Drive, SE., Suite 101, Lacey, WA 98503–1273, telephone (360) 753–9440.

SUPPLEMENTARY INFORMATION: The marbled murrelet is a small seabird of the Alcidae family. The marbled murrelet's breeding range extends from Bristol Bay, Alaska, south to the Aleutian Archipelago, northeast to Cook Inlet, Kodiak Island, Kenai Peninsula and Prince William Sound, south along the coast through the Alexander

Archipelago of Alaska, British Columbia, Washington, and Oregon to northern Monterey Bay in central California. Birds winter throughout the breeding range and also occur in small numbers off southern California. Marbled murrelets spend most of their lives in the marine environment where they forage in near-shore areas and consume a diversity of prey species including small fish and invertebrates. In their terrestrial environment, the presence of platforms used for nesting is the most important characteristic of the species nesting habitat. Marbled murrelet habitat use is positively associated with the presence and abundance of mature and old-growth forests, large core areas of old-growth, low amounts of edge and fragmentation, proximity to the marine environment, and increasing forest age and height.

The marbled murrelet was listed as threatened under the Act on October 1, 1992, (57 FR 45328), and critical habitat was designated on May 24, 1996 (61 FR 26256). On September 12, 2006, we proposed to revise the currently designated critical habitat for the marbled murrelet in Washington, Oregon, and California. In that proposed revision, we proposed to designate 3,590,642 acres (ac) (1,363,300 hectares (ha)) as critical habitat, and to exclude 3,368,950 ac (1,363,300 ha) of these lands under section 4(b)(2) of the Act from the final designation (71 FR 53838). On June 26, 2007, we published a notice in the **Federal Register** reopening the comment period and announcing the availability of a draft economic analysis on the proposed revision (72 FR 35025). The comment period was once again reopened with the publication of a notice in the **Federal Register** on September 5, 2007, (72 FR 50929).

Finding

This notice presents our finding pursuant to section 4(b)(6)(A)(i)(II) of the Act that a final regulation to implement the proposed revision to murrelet critical habitat should not be made at this time. The basis for this finding is described below.

Background

The Bureau of Land Management (BLM) is currently completing its Western Oregon Plan Revision (WOPR), which will result in revised Resource Management Plans for the Salem, Eugene, Coos Bay, Roseburg, and Medford Districts, and the Klamath Falls Resource Area of the Lakeview District Office. We are continuing to work cooperatively with the BLM as they develop their final management plan revisions. We recognize that the revised management plans will have significant effects on future conservation of the species. Due to uncertainties regarding these plan revisions in western Oregon, we have determined that it is not appropriate to revise the designation of critical habitat for the marbled murrelet at this time. We will continue to consider whether revisions of critical habitat for the marbled murrelet may be appropriate at some future point. Accordingly, the May 24, 1996, final rule designating critical habitat for the marbled murrelet remains in effect (61 FR 26256).

On April 8, 2002, the American Forest Resource Council (AFRC) filed a lawsuit in the case of *AFRC et al.* v. *Secretary of the Interior,* Civ. No. 02–06087 AA (D. OR) challenging the marbled murrelet critical habitat designation that was made on May 24, 1996 (61 FR 26256). The Service entered into a settlement agreement to review the critical habitat designation and make any revisions it deemed appropriate, after a revised consideration of economic and any other relevant impacts of designation. Pursuant to the settlement agreement, the Service published a proposed revision to critical habitat for the marbled murrelet on September 12, 2006 (71 FR 53838), which included minor adjustments to the original designation and proposed several exclusions under section 4(b)(2) of the Act. The Service also developed an economic analysis that was consistent with *New Mexico Cattle Growers Association* v. *USFWS,* 248 F.3d 1277 (10th Cir. 2001), but because of the reasons discussed above, the Service will not be relying on this analysis to finalize critical habitat at this time. The above actions and the publication of this **Federal Register** notice complete the Service's obligations under the settlement agreement.

In summary, due to the uncertainty regarding the effects of current BLM Resource Management Plan revisions, we find that it is not appropriate to revise critical habitat at this time, and therefore that the proposed revision of critical habitat for the marbled murrelet should not be made. Accordingly, the May 24, 1996, final rule designating critical habitat for the marbled murrelet remains in effect (61 FR 26256).

Author(s)

The authors of this document are the staff of the Pacific Regional Office, U.S. Fish and Wildlife Service.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: February 27, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E8–4318 Filed 3–5–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 226

RIN 0648-AV35

Endangered and Threatened Species; Critical Habitat for Threatened Elkhorn and Staghorn Corals

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

ACTION: Proposed rule; correction.

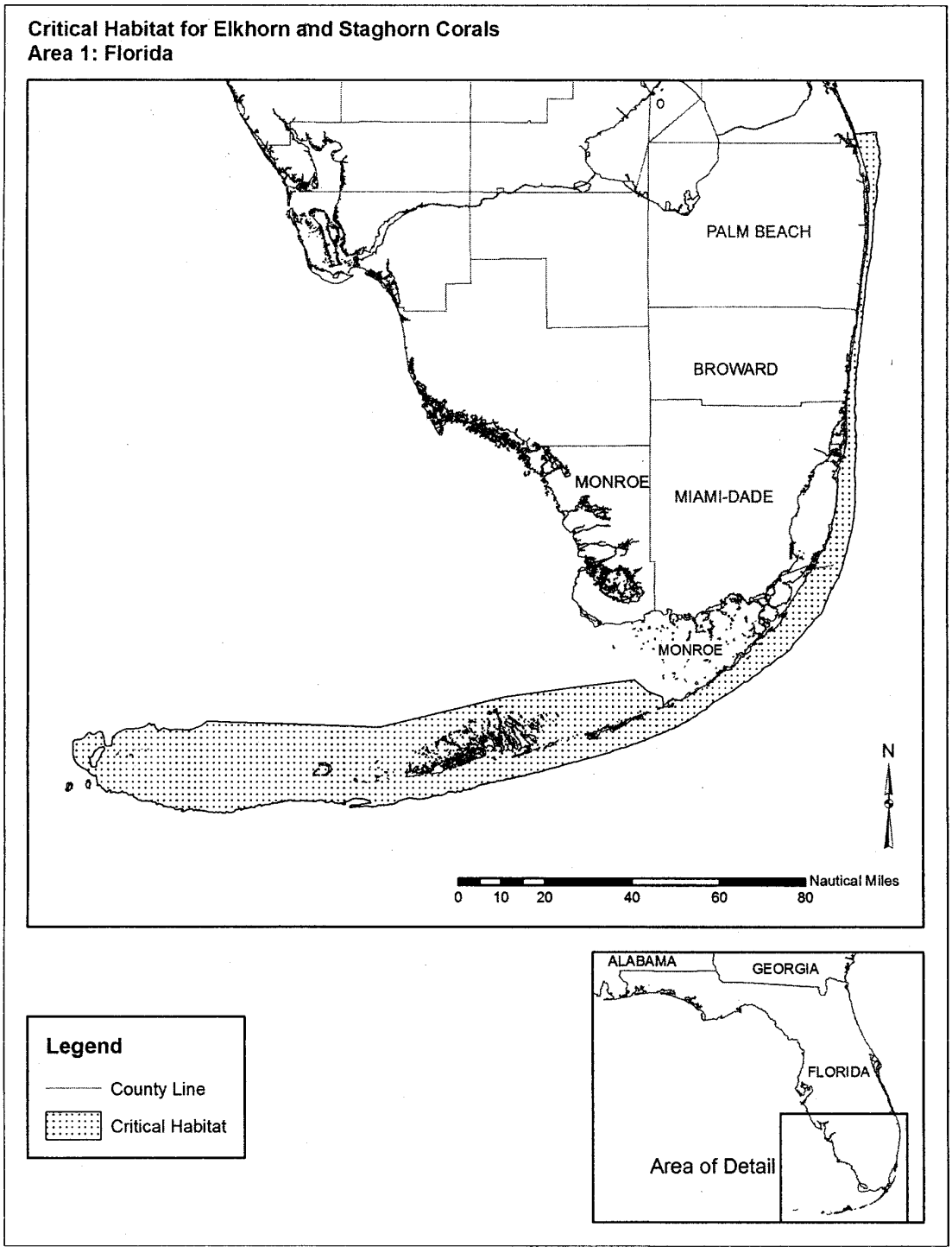
SUMMARY: This document corrects a map in the regulatory language of a proposed rule published in the **Federal Register** of February 6, 2008. This correction makes the map of the Florida area of critical habitat for elkhorn and staghorn corals consistent with the textual description.

FOR FURTHER INFORMATION CONTACT: Jennifer Moore or Sarah Heberling at 727–824–5312; or Marta Nammack at 301–713–1401.

SUPPLEMENTARY INFORMATION:

Correction

In proposed rule FR Doc. 08 497, beginning on page 6895 in the issue of February 6, 2008, make the following correction, in the Regulatory Language section. On page 6912, replace the map labeled ''Critical Habitat for Elkhorn and Staghorn Corals, Area 1: Florida'' with the following map:



BILLING CODE 3510–22–S

Dated: February 29, 2008.

John Oliver,

Deputy Assistant Administrator for Operations, National Marine Fisheries Service.

[FR Doc. 08–973 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–22–C

Notices

Federal Register

Vol. 73, No. 45

Thursday, March 6, 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

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee will hold a meeting on March 24, 2008 at the Sierra Nevada College, 999 Tahoe Boulevard, Incline Village, NV, 89451. This Committee, established by the Secretary of Agriculture on December 15, 1998 (64 FR 2876), is chartered to provide advice to the Secretary on implementing the terms of the Federal Interagency Partnership on the Lake Tahoe Region and other matters raised by the Secretary.

DATES: The meeting will be held March 24, 2008, beginning at 10 a.m. and ending at 12 p.m.

ADDRESSES: The meeting will be held at Sierra Nevada College, 999 Tahoe Boulevard, Incline Village, NV, 89451.

FOR FURTHER INFORMATION CONTACT: Arla Hains, Lake Tahoe Basin Management Unit, Forest Service, 35 College Drive, South Lake Tahoe, CA 96150, (530) 543–2773.

SUPPLEMENTARY INFORMATION: Items to be covered on the agenda include: (1) Tahoe Science Consortium Round 8 science update; (2) hazardous fuels status; and, (3) Public Comment. All Lake Tahoe Basin Federal Advisory Committee meetings are open to the public. Interested citizens are encouraged to attend at the above address. Issues may be brought to the attention of the Committee during the open public comment period at the meeting or by filing written statements with the secretary for the Committee before or after the meeting. Please refer any written comments to the Lake Tahoe Basin Management Unit at the contact address stated above.

Dated: February 29, 2008.

David Marlow,

Acting Forest Supervisor.

[FR Doc. E8–4321 Filed 3–5–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Inviting Applications for Renewable Energy Systems and Energy Efficiency Improvements Grants and Guaranteed Loans

AGENCY: Rural Business-Cooperative Service (RBS), USDA.

ACTION: Notice.

SUMMARY: Rural Business-Cooperative Service (RBS), an Agency within the United States Department of Agriculture (USDA) Rural Development, announces it is accepting applications for fiscal year (FY) 2008 to purchase renewable energy systems and make energy efficiency improvements for agriculture producers and rural small businesses in eligible rural areas. Funding will be available in the form of grants and loan guarantees. In addition to stand-alone grants and loan guarantees, applicants may apply for combination loan guarantee and grant funding (combination package).

For renewable energy systems, the minimum grant is $2,500 and the maximum is $500,000. For energy efficiency improvements, the minimum grant is $1,500 and the maximum is $250,000. Funding for grant and loan combination packages will be funded from the same allocation as loan guarantees. Fifty percent of the appropriated grant funding will be reserved for the first grant-only competition. Any unused grant only funds from the first competition will be made available for the second grant-only competition.

The maximum amount of a guarantee to be provided to a borrower will be $10 million. For FY 2008, the guarantee fee amount is 1 percent of the guaranteed portion of the loan and the annual renewal fee is 0.250 percent (one-quarter of one percent) of the guaranteed portion of the loan.

For FY 2008, the following are the funds provided by Congress for the Section 9006 program: For grants, $15,888,000, and for loans, $204,953,560.

DATES: The USDA will issue one grant solicitation for two separate competitions in FY 2008. Competitive deadlines will occur in accordance with deadlines as follows:

Grants

For the first competitive window, complete (see 7 CFR 4280.111) grant-only applications, must be submitted to the appropriate USDA Rural Development State Office no later than April 15, 2008. For the second competitive window, complete (see 7 CFR 4280.111) grant-only applications must be submitted to the appropriate USDA Rural Development State Office no earlier than April 16, 2008, and no later than June 16, 2008. Applications submitted under the first competition that are not selected will automatically be considered under the second competition, using the materials and score from the first competition (i.e., no changes to scored applications will be accepted). It is anticipated that two grant award announcements will be made. The first announcement is anticipated prior to June 16, 2008, and the second, prior to September 16, 2008.

Guaranteed Loans

Complete guaranteed loan applications will be accepted and processed, until June 16, 2008, in a rolling application manner. Applications for loan guarantees must be completed and submitted to the appropriate USDA Rural Development State Office no later than June 16, 2008. No application received in the State Office after June 16, 2008, will be considered.

Combination Packages

Complete combination packages will be accepted and processed, until June 16, 2008. Once funds become available, combination packages will be evaluated on a bi-weekly basis. Combination applications must be completed and submitted to the appropriate USDA Rural Development State Office no later than June 16, 2008. No application received after June 16, 2008, will be considered.

Any unused funding as of August 15, 2008, may be pooled and revert to grant money. All submissions must be

received at the applicable office by 4:30 p.m. local time on the deadline date.

The application closing deadlines for grant, loan guarantee, and combination packages are firm. USDA Rural Development will not consider any application that is received after the closing deadline. In addition to the application requirements stated in 7 CFR part 4280–B, a complete application will include all environmental review documents with supporting documentation in accordance with 7 CFR part 1940 subpart G. The application must be complete before the State Office forwards the application to the National Office for funding consideration.

ADDRESSES: Submit applications to the USDA Rural Development State Office in the state where your project is located. A list of the USDA Rural Development State Offices and Energy Coordinators addresses and telephone numbers follow. For further information about this solicitation, please contact the applicable State Office. This document is available on our Web site at *http://www.rurdev.usda.gov/rbs/farmbill/index.html*.

USDA State Rural Development Offices

Alabama

Quinton Harris, USDA Rural Development, Sterling Centre, Suite 601, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3623

Alaska

Dean Stewart, USDA Rural Development, 800 West Evergreen, Suite 201, Palmer, AK 99645–6539, (907) 761–7722

Arizona

Alan Watt, USDA Rural Development, 230 North First Avenue, Suite 206, Phoenix, AZ 85003–1706, (602) 280–8769

Arkansas

Tim Smith, USDA Rural Development, 700 West Capitol Avenue, Room 3416, Little Rock, AR 72201–3225, (501) 301–3280

California

Charles Clendenin, USDA Rural Development, 430 G Street, AGCY 4169, Davis, CA 95616, (530) 792–5825

Colorado

April Dahlager, USDA Rural Development, 655 Parfet Street, Room E–100, Lakewood, CO 80215, (720) 544–2909

Delaware-Maryland

James Waters, USDA Rural Development, 1221 College Park Drive, Suite 200, Dover, DE 19904, (302) 857–3626

Florida/Virgin Islands

Joe Mueller, USDA Rural Development, 4440 NW. 25th Place, Gainesville, FL 32606, (352) 338–3482

Georgia

J. Craig Scroggs, USDA Rural Development, 111 E. Spring St., Suite B, Monroe, GA 30655, Phone 770–267–1413 ext. 113

Hawaii

Tim O'Connell, USDA Rural Development, Federal Building, Room 311, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8313

Idaho

Brian Buch, USDA Rural Development, 725 Jensen Grove Drive, Suite 1, Blackfoot, ID 83221, (208) 785–5840, Ext. 118

Illinois

Molly Hammond, USDA Rural Development, 2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6210

Indiana

Jerry Hay, USDA Rural Development, 2411 N. 1250 W., Deputy, IN 47230, (812) 873–1100

Iowa

Teresa Bomhoff, USDA Rural Development, 873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4447

Kansas

David Kramer, USDA Rural Development, 1303 SW First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2744

Kentucky

Scott Maas, USDA Rural Development, 771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7435

Louisiana

Kevin Boone, USDA Rural Development, 905 Jefferson Street, Suite 320, Lafayette, LA 70501, (337) 262–6601

Maine

John F. Sheehan, USDA Rural Development, 967 Illinois Avenue, Suite 4, P.O. Box 405, Bangor, ME 04402–0405, (207) 990–9168

Massachusetts/Rhode Island/Connecticut

Charles W. Dubuc, USDA Rural Development, 60 Quaker Lane, Suite 44, Warwick, RI 02886, (401) 826–0842

Michigan

Traci J. Smith, USDA Rural Development, 3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5225

Minnesota

Lisa L. Noty, USDA Rural Development, 1400 West Main Street, Albert Lea, MN 56007, (507) 373–7960 Ext. 120

Mississippi

G. Gary Jones, USDA Rural Development, Federal Building, Suite 831, 100 West Capitol Street, Jackson, MS 39269, (601) 965–5457

Missouri

Matt Moore, USDA Rural Development, 601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–9321

Montana

John Guthmiller, USDA Rural Development, 900 Technology Blvd., Unit 1, Suite B, P.O. Box 850, Bozeman, MT 59771, (406) 585–2540

Nebraska

Debra Yocum, USDA Rural Development, 100 Centennial Mall North, Room 152, Federal Building, Lincoln, NE 68508, (402) 437–5554

Nevada

Herb Shedd, USDA Rural Development, 1390 South Curry Street, Carson City, NV 89703, (775) 887–1222

New Hampshire (See Vermont)

New Jersey

Victoria Fekete, USDA Rural Development, 8000 Midlantic Drive, 5th Floor North, Suite 500, Mt. Laurel, NJ 08054, (856) 787–7753

New Mexico

Eric Vigil, USDA Rural Development, 6200 Jefferson Street, NE., Room 255, Albuquerque, NM 87109, (505) 761–4952

New York

Thomas Hauryski, USDA Rural Development, 415 West Morris Street, Bath, NY 14810, (607) 776–7398 Ext. 132

North Carolina

H. Rossie Bullock, USDA Rural Development, 4405 Bland Road, Suite 260, Raleigh, NC 27609, (910) 739–3349 Ext. 4

North Dakota

Dennis Rodin, USDA Rural Development, Federal Building, Room 208, 220 East Rosser Avenue, P.O. Box 1737, Bismarck, ND 58502–1737, (701) 530–2029

Ohio

Randy Monhemius, USDA Rural Development, Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2424

Oklahoma

Jody Harris, USDA Rural Development, 100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1036

Oregon

Don Hollis, USDA Rural Development, 1229 SE Third Street, Suite A, Pendleton, OR 97801–4198, (541) 278–8049, Ext. 129

Pennsylvania

Bernard Linn, USDA Rural Development, One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2182

Puerto Rico

Luis Garcia, USDA Rural Development, IBM Building, 654 Munoz Rivera Avenue, Suite 601, Hato Rey, PR 00918–6106, (787) 766–5091, Ext. 251

South Carolina

Shannon Legree, USDA Rural Development, Strom Thurmond Federal Building, 1835

Assembly Street, Room 1007, Columbia, SC 29201, (803) 765–5881

South Dakota

Douglas Roehl, USDA Rural Development, Federal Building, Room 210, 200 4th Street, SW., Huron, SD 57350, (605) 352–1145

Tennessee

Will Dodson, USDA Rural Development, 3322 West End Avenue, Suite 300, Nashville, TN 37203–1084, (615) 783–1350

Texas

Daniel Torres, USDA Rural Development, Federal Building, Suite 102, 101 South Main Street, Temple, TX 76501, (254) 742–9756

Utah

Roger Koon, USDA Rural Development, Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, Salt Lake City, UT 84138, (801) 524–4301

Vermont/New Hampshire

Lyn Millhiser, USDA Rural Development, City Center, 3rd Floor 89 Main Street, Montpelier, VT 05602, (802) 828–6069

Virginia

Laurette Tucker, USDA Rural Development, Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1594

Washington

Mary Traxler, USDA Rural Development, 1835 Black Lake Blvd. SW, Suite B, Olympia, WA 98512, (360) 704–7707

West Virginia

Cheryl Wolfe, USDA Rural Development, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4882

Wisconsin

Mark Brodziski, USDA Rural Development, 4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7600, Ext. 131

Wyoming

Jon Crabtree, USDA Rural Development, Dick Cheney Federal Building, 100 East B Street, Room 1005, P.O. Box 820, Casper, WY 82602, (307) 233–6719

SUPPLEMENTARY INFORMATION: This solicitation is issued pursuant to Section 9006 of the Farm Security and Rural Investment Act of 2002 (2002 Act), which established the Renewable Energy Systems and Energy Efficiency Improvements Program (Section 9006). The program is designed to help agricultural producers and rural small businesses reduce energy costs and consumption and help meet the Nation's critical energy needs. The 2002 Act mandates the maximum percentages of funding that USDA Rural Development will provide. Grants under this program will not exceed 25 percent of the eligible project costs. Loan guarantees will not exceed 50 percent of the eligible project costs. Funding approved for combination guaranteed loan and grant packages will not exceed 50 percent of eligible project cost, with the grant portion not to exceed 25 percent of eligible project costs.

As stated in 7 CFR 4280.108, projects must be for a pre-commercial or commercially available technology. The definition of ''pre-commercial'' and ''commercial'' are at 7 CFR 4280.103. The Agency's position is that if the system is currently commercially available only outside the United States (U.S.), then applicants must provide authoritative evidence of the foreign operating history, performance, and reliability in order to address the proven operating history identified in the definition. ''Commercial'' applicants must provide evidence that professional service providers, trades, large construction equipment providers and labor are readily available domestically and familiar with installation procedures and practices, and spare parts and service are readily available in the U.S. to properly maintain and operate the system. All warranties must be valid in the U.S.

In accordance with the definition of ''pre-commercial'' technology found in 7 CFR 4280.103, technical and economic potential for commercial application must be demonstrated to the Agency. In order to demonstrate the system has emerged through research and development as well as the demonstration process, applicants must provide, authoritative evidence of the operating history, performance, and reliability past completion of start-up, shake-down, and/or commissioning. Typically, and inline with financial and operating performance evaluation protocol, the documented operating history, which may be established domestically or outside the U.S., should provide performance data for a minimum of 12 months. The time period will address the economic and technical performance potential identified in 7 CFR 4280.103.

In accordance with demonstrating the potential for commercial application, applicants must provide evidence that professional service providers, trades, large construction equipment providers, and labor are potentially available domestically and sufficiently familiar with installation procedures and practices, and spare parts and service are available in the U.S. to properly maintain and operate the system. Any warranties would have to be valid in the U.S.

Information required to be in the grant application package is contained in 7 CFR 4280.111. Awards are made on a competitive basis using specific evaluation criteria contained in 7 CFR 4280.112(e). To ensure that projects are accurately scored by USDA, applicants are requested to tab and number each evaluation criteria and include in that section, its corresponding supporting documentation and calculations according to 7 CFR 4280.112. Only projects that have completed the environmental review process according to 7 CFR 4280.114(d), demonstrated project eligibility according to 7 CFR 4280.108, demonstrated technical feasibility, and are complete will be eligible for funding consideration.

State Offices will submit eligible grant funding requests, with the State Office executed score sheets, including all supporting documentation to the National Office for funding consideration.

To reduce scoring bias by technology and scale, a standard statistical normalization process will be applied to all competitive grant application scores. All applicants will be notified by the USDA Rural Development State Offices of the Agency's decision on the awards.

Information required to be in the guaranteed loan application and the combination guaranteed loan and grant application package is contained in 7 CFR 4280.128 and 7 CFR 4280.193(c), respectively.

- Guaranteed loan applications will be received and processed, on a rolling basis, until June 16, 2008, or funds are exhausted, whichever occurs first.
- Combination packages will also be received and processed on a rolling basis until June 16, 2008. However, due to the grant component, competitive scoring of combination packages will take place on a bi-weekly basis. Awards will be announced based on the bi-weekly competition schedule until funds are exhausted or there are no remaining qualified applicants. Combination applications may only be submitted by applicants that demonstrate financial need. Combination applicants that are approved for funding must accept and utilize both the loan and the grant. In addition, to ensure equitable competition, and high quality projects, the grant portion of any combination package must score at least 70 percent of the available points (minimum of 84 points), of which at least 24 points must be for technical merit. Only those combination packages that demonstrate financial need and score a sufficient amount of grant points will be considered for funding. Applications that do not meet these thresholds may be resubmitted as a guaranteed loan only application.

All applicants will be notified by the USDA Rural Development State Offices in regards to the Agency's decision on their application.

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.775 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials.

USDA is participating as a partner in the government-wide Grants.gov site. Applicants may submit grant-only applications to the Agency in either electronic or paper format. Please be mindful that the application deadline for electronic format differs from the deadline for paper format. The electronic format deadline will be based on Washington, DC time. The paper format deadline is local time for each USDA Rural Development State Office.

Users of Grants.gov will be able to download a copy of the application package, complete it off line, and then upload and submit the application via the Grants.gov site. You may not e-mail an electronic copy of a grant application to USDA Rural Development; however, the Agency encourages your participation in Grants.gov.

- When you enter the Grants.gov site, you will find information about submitting an application electronically through the site as well as the hours of operation. USDA Rural Development strongly recommends that you do not wait until the application deadline date to begin the application process through Grants.gov. To use Grants.gov, applicants must have a Dun and Bradstreet Data Universal Numbering System (DUNS) number which can be obtained at no cost via a toll-free request line at 1–866–705–5711 or online at *http://fedgov.dnb.com/webform.*
- You may submit all documents electronically through the Web site, including all information typically included on the application for Renewable Energy Systems and Energy Efficiency Improvements Program, and all necessary assurances and certifications. After electronically submitting an application through the Web site, the applicant will receive an automatic acknowledgement from Grants.gov that contains a Grants.gov tracking number.
- USDA Rural Development may request that the applicant provide original signatures on forms at a later date.
- If applicants experience technical difficulties on the closing date and are unable to meet the 4:30 p.m. (Washington, DC time) deadline, print out your application and submit it to your respective State Office. If applicants submit applications to a State Office, applicants must meet the closing date and local time deadlines.

Applicants may access the electronic grant application for Renewable Energy Systems and Energy Efficiency Improvements Program at *http://www.Grants.gov.*

Please note that applicants must locate the downloadable application package for this program by the CFDA Number or FedGrants Funding Opportunity Number, which can be found at *http://www.Grants.gov.*

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, the paperwork burden has been cleared by the Office of Management and Budget (OMB) under OMB Control Number 0570–0050.

Nondiscrimination Statement

USDA prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250–9410, or call (800) 795–3272 (voice), or (202) 720–6382 (TDD). ''USDA is an equal opportunity provider, employer, and lender.''

Dated: February 29, 2008.

Ben Anderson,

Administrator, Rural Business-Cooperative Service.

[FR Doc. E8–4305 Filed 3–4–08; 8:45 am]

BILLING CODE 3410–XY–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 07–BIS15–21]

In the Matter of: Mr. Ali Asghar Manzarpour, Preston Technical Services, Ltd.-UK, 17 Preston Village Mews Middle Road, Brighton East Sussex BN1 6XU, England; and c/o Maria House, 35 Millers Rd., Brighton BN1 5NP, England, Respondent; Final Decision and Order

This matter is before me upon a Recommended Decision and Order (''RDO'') of the Administration Law Judge (''ALJ'') issued on February 4, 2008.

In a charging letter filed on July 27, 2007, the Bureau of Industry and Security (''BIS'') alleged that Respondent, Ali Asghar Manzarpour (''Manzarpour''), Director of Preston Technical Services, Ltd., committed three violations of the Export Administration Regulations (currently codified at 15 CFR Parts 730–774) (2007)) (''Regulations''),[1] issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (the ''Act'').[2]

Specifically, the charging letter alleged that on or about April 28, 2004, Manzarpour caused, aided, or abetted in the doing of an act prohibited by the Regulations by facilitating and coordinating the export of a single engine aircraft that is subject to the Regulations, classified under Export Control Classification Number (ECCN) 9A991.b and controlled for anti-terrorism (AT) reasons, to Iran without the required export authorization. Specifically, Manzarpour ordered a freight-forwarding company to ship the aircraft from the United States to the United Kingdom (UK) knowing that Iran was the ultimate destination. Upon its arrival in the UK, Manzarpour instructed the freight forwarder to transship the item to Iran, but the item was detained before leaving the UK. Pursuant to section 560.204 of the Iranian Transactions Regulations maintained by the Department of the

[1] The violations charged occurred in 2004. The Regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 CFR Parts 730–774 (2004)). The 2007 Regulations establish the procedures that apply to this matter.

[2] Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2007 (72 FR 46,137 (August 16, 2007)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA'').

Treasury's Office for Foreign Assets Control (''OFAC''), the export of an item to a third country intended for transshipment to Iran is a transaction that requires OFAC authorization. Under section 746.7 of the Regulations, no person may engage in the exportation of an item subject to both the Regulations and the Iranian Transactions Regulations without authorization from OFAC. No OFAC authorization was obtained for the export. BIS charged that in so doing, Manzarpour committed one violation of section 764.2(b) of the Regulations.

The charging letter also alleged that on or about April 28, 2004, Manzarpour violated the Regulations by ordering, selling, and/or buying an item for export from the United States with knowledge that a violation of the Regulations would occur in connection with the items. Specifically, Manzarpour ordered, bought, and/or sold an aircraft subject to the Regulations and the Iranian Transactions Regulations, with knowledge or reason to know that the item would be exported to Iran, via the UK, without the required U.S. Government authorization. Manzarpour had knowledge that the U.S. item could not be sold to sanctioned countries, including Iran, a fact he acknowledged during an interview with UK Customs officials. BIS charged that in so doing, Manzarpour committed one violation of section 764.2(e) of the Regulations.

Finally, the charging letter alleged that on or about April 28, 2004, Manzarpour took actions with intent to evade the Regulations. Specifically, Manzarpour, acting through his companies, Preston Technical Services Ltd.-UK and Baronmode, Ltd.-UK, acquired an aircraft subject to the Regulations, and classified as ECCN 9A991.b, from U.S. suppliers with intent to transship the aircraft to Iran. Manzarpour and his companies failed to inform the U.S. suppliers of the ultimate destination of the item and, as such, no license was obtained from the U.S. Government for this transaction, as was required by section 746.7 of the Regulations. BIS charged that in so doing, Manzarpour committed one violation of section 746.2(h) of the Regulations.

In accordance with section 766.3(b)(1) of the Regulations, on July 27, 2007, BIS mailed the notice of issuance of the charging letter by registered mail to Manzarpour at his last known address. Failing to receive a return receipt, BIS also mailed a copy by registered mail to Manzarpour at an alternate address on September 4, 2007. In addition, BIS attempted to serve the charges on Manzarpour by various other means, including facsimile, Federal Express and electronic mail.

BIS presented evidence that on September 20, 2007, delivery of the charging letter, sent on September 4, 2007, was attempted via registered mail and ''refused.'' Thus, under section 766.3(c) of the Regulations, the ALJ deemed September 20, 2007 the effective date of service based on the ''refusal.'' To date, however, Manzarpour has not filed an answer to the charging letter with the ALJ, as required by the Regulations.

In accordance with section 766.7 of the Regulations, BIS filed a Motion for Default Order on December 4, 2007, which it supplemented on December 17, 2007. Under section 766.7(a), ''[f]ailure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear,'' and ''on BIS's motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter.'' The Motion for Default Order recommended that Manzarpour be denied export privileges under the Regulations for a period of twenty years.

Based on the record before him, the ALJ issued an RDO on February 4, 2008, in which he found Manzarpour in default and held that the Respondent had committed one violation of section 764.2(b), one violation of section 764.2(e) and one violation of section 764.2(h). The ALJ also recommended the penalty of denial of Manzarpour's export privileges under the Regulations for twenty years.

The RDO, together with the entire record in this case, has been referred to me for final action under section 766.22 of the Regulations. I find that the record supports the ALJ's findings of fact and conclusions of law concerning Manzarpour's default and concerning his violations of the Regulations as alleged in the charging letter. I also find that the penalty recommended by the ALJ is appropriate, given the facts of this case, the nature of the violations, and the importance of preventing future unauthorized exports.

I do note, however, one clarification regarding dictum contained in the ALJ's Recommended Decision and Order. On pages 4 and 9 of the RDO, the ALJ concluded that notice of the charging letter was provided to Manzarpour via registered mail. On page 9 of the RDO, in addressing attempts to serve the charging letter by means of electronic mail and Federal Express, the ALJ states: ''The problem with both methods of service is that they are not authorized under 15 CFR 766.3(b) as an acceptable means of obtaining service.'' I agree with the ALJ that, in this particular case, BIS did not present sufficient evidence to establish service by means other than or in addition to registered mail. The Regulations do not, however, preclude use of a delivery service, such as Federal Express, to effectively serve charges. Use of such an alternative means of service could satisfy section 766.3(b)(2) or (b)(3) of the Regulations under certain circumstances. The Regulations provide that effective service of a charging letter can be satisfied if delivered to or left with an appropriate officer or agent pursuant to section 766.3(b)(2), or with a person of suitable age and discretion who resides at the Respondent's last known dwelling pursuant to section 766.3(b)(3), and a certificate of service is signed by the person making such service stating the method of service and the identity of the person with whom the charging letter was left as indicated in section 766.3(b)(4).

The clarification discussed above does not affect the findings or conclusions reached by the ALJ concerning Manzarpour's default or his violations of the Regulations. Based on my review of the entire record, I affirm the findings of act and conclusions of law in the RDO, with the clarification discussed above.

Accordingly, *It is therefore ordered*,

First, that for a period of twenty (20) years from the date this Order is published in the **Federal Register**, Ali Agar Manzarpour, Preston Technical Services, Ltd.-UK, 17 Preston Village Mews Middle Road, Brighton East Sussex BN1 6XU, England, and c/o Maria House, 35 Millers Rd., Brighton BN1 5NP, England, and when acting for or on his behalf, his representatives, agents, assigns, or employees (''Denied Person'') may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exporter or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any

other activity subject to the regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be expected from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that after notice and opportunity for comment as provided in section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective upon publication in the **Federal Register**.

Dated: March 3, 2008.

Daniel O. Hill,

Acting Under Secretary of Commerce for Industry and Security.

Redacted Copy

Recommended Decision and Order; Default

The Bureau of Industry and Security (''BIS'' or ''Agency'') commenced this administrative enforcement action seeking imposition of sanctions against Ali Asghar Manzarpour, Director of Preston Technical Services, Ltd (''Respondent''). On July 27, 2007, BIS issued and served a Charging Letter by registered mail to Mr. Manzarpour's last known address. The Charging Letter alleges that on April 28, 2004[1] Mr. Manzarpour committed three violations of the Export Administration Act of 1979 (''Act''), as amended and codified at 50 U.S.C. App. Sections 2401–20 (2000), and the Export Administration Regulations (''EAR'' or ''Regulations''), as amended and codified at 15 CFR Parts 730–74 (2007).[2] To date Mr. Manzarpour has not filed an Answer to the Charging Letter. Pursuant to 15 CFR 766.7, BIS filed a Motion for Default.

For reasons stated herein, the Motion for Default filed in granted.

I. Findings of Fact

Charge 1 alleges Mr. Manzarpour violated 15 CFR 764.2(b), on or about April 28, 2004, by causing, aiding, or abetting an act prohibited by the EAR when he ordered a freight forwarding company to export a single engine aircraft from the United States (U.S.) without the required government authorization to the United Kingdom (UK) knowing that Iran was the ultimate destination. Pursuant to Section 560.204 of the Iranian Transactions Regulations, the export of an item to a third country intended for transshipment to Iran is a transaction that requires the Department of the Treasury's Office of Foreign Assets Controls (''OFAC'') authorization. Under Section 746.7 of the regulations, no person may engage in the exportation of an item subject to both the Regulations and the Iranian Transactions Regulations without authorization from OFAC. No OFAC authorization was obtained for the export. (BIS Exhibit (Ex.) A).

Charge 2 alleges Mr. Manzarpour violated 15 CFR 766.2(e), on or about April 28, 2004, by acting with knowledge of a violation when he ordered, sold, and/or bought the aircraft at issue knowing or having reason to know that the item would be transshipped to Iran via the UK without the required U.S. government authorization. (*Id.*).

Charge 3 alleges Mr. Manzarpour violated 15 CFR 764.2(h), on or about April 28, 2004, by acting with the intent to evade the EAR when he, acting through his companies, Preston Technical Services Ltd.-UK and Baronmode, Ltd.-UK, acquired the aircraft from U.S. suppliers without disclosing that the intended ultimate destination of the item was Iran, and thereby failing to obtain the required U.S. government license for the transaction. (*Id.*).

BIS first attempted to serve the Charging Letter on July 27, 2007 by registered mail at Mr. Manzarpour's last known address: Preston Technical Services, Ltd.-UK, 17 Preston Village Mews Middle Road, Brighton East Sussex, BN1 6XU, United Kingdom. (*Id.*). To date, BIS has not received a return receipt for the registered mail, the Charging Letter has not been returned

[1] The charged violation occurred in 2004. The regulations governing the violations at issue are found in the 2004 version of the Code of Federal Regulations (15 CFR 730–774 (2001–02)). The 2007 regulations codified at 15 CFR Part 766 establish the procedural rules that apply to this matter.

[2] The EAA and all regulations promulgated there under expired on August 20, 201. *See* 50 U.S.C. App. 2419. Three days before its expiration, on august 17, 2001, the President declared the lapse of the EAA constitutes a national emergency. *See* Exec. Order. No. 13222, reprinted in 3 CFR at 783–784, 2001 Comp. (2002). Exercising authority under the International Emergency Economic Powers Act (''IEEPA''), 50 U.S.C. §§ 1701–1706 (2002), the President maintained the effectiveness of the EAA and its underlying regulations throughout the expiration period by issuing Exec. Order. No. 13222 on august 17, 2001. *Id.* The effectiveness of the export control laws and regulations were further extended by successive Notices issued by the President; the most recent being that of august 15, 2007. *See* Notice: Continuation of Emergency Regarding Export Control Regulations, 72 Fed. Reg. 46, 137 (August 15, 2007). Courts have held that the continuation of the operation and effectiveness of the EAA and its regulations through the issuance of Executive Orders by the President constitutes a valid exercise of authority. *See Wisconsin Project on Nuclear Arms Control* v. *United States Dep't of Commerce,* 317 F.3d 275, 278–79 (D.C. Cir. 2003); *times Publ'g Co.* v. *U.S. Department of Commerce,* 236 F.3d 1286, 1200 (11th Cir. 2001).

by the U.S. Post Office, and Mr. Manzarpour has not filed an Answer.[3]

Thereafter, on September 4, 2007, BIS made a series of unsuccessful attempts to serve a copy of the Charging Letter through various mediums, including: (a) Facsimile sent to the last know Preston Technical Services company fax number listed on the July 6, 2004, written statement signed by Mr. Manzarpour; (b) registered mail sent to Mr. Manzarpour at Baronmode, Ltd.'s last known business address reported in Dunn and Bradstreet as Maria House, 35 Millers Road, Brighton East Sussex BN1 5NP, United Kingdom (the Ultimate Consignee on the Shipper's Export Declaration form dated 4/28/2004 for the export of the aircraft at issue from the United States); (c) six electronic mails (''e-mails'') sent to several addresses compiled from a variety of sources; and (d) Federal Express (''FedEx'') to Preston Technical Services' address. *See* (BIS Ex. C–J).

The fax number for Preston Technical Services was no longer in working order; four of the six e-mails failed and the remaining two e-mails were successfully relayed but there are no assurances that they were read; and delivery of the FedEx to Preston Technical Services proved unsuccessful. *See* (*BIS Ex. D, I, J*). The Charging Letter sent registered mail on September 4, 2007 to Mr. Manzarpour at Baronmode, Ltd.'s business address located at 35 Millers Road was returned to BIS on December 7, 2007, with ''refused'' marked on the front of the envelope. *See* (*BIS Ex. U*). More specifically, the registered mail return receipt shows that the letter was ''refused'' on September 20, 2007. (*Id*).

In the interim, on September 7, 2007, BIS directed FedEx to deliver the Charging Letter to Mr. Manzarpour at Maria House, 35 Millers Road, Brighton East Sussex BN1 5NP, United Kingdom. The Charging Letter was successfully delivered by FedEx to the address on Millers Road and was signed for by F. Lynn on September 18, 2007. *See* (*BIS Ex. K*). To date, Mr. Manzapour has not filed an Answer to the Charging Letter.

Based on Mr. Manzapour's failure to file an answer, on December 4, 2007, BIS filed a Motion for Default Order together with a Recommended Decision and Order. BIS filed a Supplement to the Motion for Default Order and an Amended Recommended Decision and Order on December 17, 2007.[4] In both Motions, BIS seeks imposition of a twenty (20) year Denial Order against Mr. Manzarpour.

II. Applicable Law/Regulations

The procedural regulations governing service of the Charging Letter instituting administrative enforcement proceedings against a respondent is set forth in 15 CFR 766.3(b), which states in pertinent part as follows:

> (b) Notice of issuance of charging letter instituting administrative enforcement proceeding. A respondent shall be notified of the issuance of a charging letter, or any amendment or supplement thereto:
>
> (1) By mailing a copy by registered or certified mail addressed to the respondent at the respondent's last known address;
>
> (2) By leaving a copy with the respondent or with an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process for the respondent; or
>
> (3) By leaving a copy with a person of suitable age and discretion who resides at the respondent's last known dwelling.

The Under Secretary has upheld that service of the Charging Letter is effective where the Agency makes diligent good-faith efforts to provide actual notice to respondent at the last known address, but never receives a return receipt for the Charging Letter. *In re Modern Engineering Services, Ltd.*, 65 FR 81,822 (Dec. 27, 2000).[5] The ''date of service'' is defined as ''the date of * * * delivery [of the Charging Letter], or its attempted delivery if delivery is refused.'' 15 CFR 766.3(c).

A respondent is required to file an answer within thirty (30) days after being served with the Charging Letter. *See* 15 CFR 766.6(a). Failure of the respondent to file an answer within the time prescribed by regulation constitutes a waiver of respondent's right to appear and contest the allegations in the Charging Letter. *Id.* at 766.7. It also entitles BIS to seek a default judgment. *See In re Daqing Zhou,* 71 FR 65,775 (Nov. 9, 2006). Section 766.7 further provides that upon BIS's motion and without further notice to respondent, the judge shall find the facts as to be alleged in the Charging Letter and render an initial or recommended decision and order. 15 CFR 766.7.

III. Discussion

In this case, BIS has established that notice of the Charging Letter was served on Mr. Manzarpour in accordance with 15 CFR 766.3(b)(1). BIS presented evidence that on July 27, 2007, the Charging Letter was sent by registered mail to Mr. Manzarpour at Preston Technical Services, Ltd.-UK, 17 Preston Village Mews Middle Road, Brighton East Sussex, BN1 6XU, United Kingdom, Respondent's last known address obtained from a commercial invoice and a signed written statement. BIS also presented evidence that diligent and good-faith efforts were made to provide actual notice of the Charging Letter to Mr. Manzarpour, including: (a) Facsimile to Respondent's last known fax number; (b) FedEx to Respondent's last known address; (c) e-mail to various last known e-mail addresses used by Respondent; and (d) both registered mail and FedEx to Respondent's last known alternate business addresses.

BIS presented evidence that F. Lynn signed for the Charging Letter on September 18, 2007, which was sent to Mr. Manzarpour by FedEx at a last known alternate address located on 35 Millers Road. In its Supplement to Motion for Default, BIS presented additional evidence that delivery of the Charging Letter, dated September 4, 2007, sent by registered mail to Mr. Manzarpour at the same alternate address, was ''refused'' on September 20, 2007.

As to the date of service and the date of ''refusal'', BIS raises three (3) arguments in support of its Motion for Default. First, BIS argues that October 25, 2007 (ninety (90) days after the Charging Letter was first issued) should be deemed the date of attempted delivery and constructive refusal. Second, Respondent argues that the date on which the Charging Letter was successfully delivered to Manzarpour's last known e-mail addresses or September 18, 2007 (i.e., the date in which the Charging Letter was received by F. Lynn via FedEx) might be acceptable as the date of service. Third, BIS argues that September 20, 2007 (i.e., the date in which delivery of the registered mail to Manzarpour at his last known alternate address) should be considered the date of service.

In an effort to shed some light on determining the date of service, BIS's arguments are address in full detail.

[3] BIS obtained the address for Mr. Manzarpour at Preston Technical Services from two sources: (1) Commercial Invoice No. 2283/04 dated 18-March-2004 for the aircraft at issue in this case; and (2) a written statement dated July 6, 2004 drafted on Preston Technical Services' letterhead and signed by Mr. Manzarpour in his capacity as the organization's Director. (BIS Ex. B–C).

[4] BIS filed the Supplement to the Motion for Default Order and Amended Recommended Decision and Order after receiving the returned Charging Letter sent registered mail on September 4, 2007 to Mr. Manzarpour at Baronmode, Ltd.'s business address located at 35 Millers Road marked ''refused.''

[5] Although *Modern Engineering Services* was issued by the predecessor to the Bureau of Industry & Security, the Bureau of Export Administration, the statements of law enunciated therein serves as appropriate guidance.

(1) October 25, 2007 Is Not an Acceptable Date of Service

First, in its initial Motion for Default dated December 4, 2007, BIS argued that the date of service should be October 25, 2007 (i.e., ninety (90) days after the date in which the Charging Letter was first sent via registered mail to Respondent). To support its argument, BIS relies on *Modern Engineering Services*. This argument is rejected because, in the present case, the ninety (90) day time period for registered mail delivery from the U.S. to the UK is speculative.

BIS's reliance on *Modern Engineering Services* is misplaced. The ninety (90) day period discussed in that case was based on information received from the U.S. Post Office establishing that it takes a maximum of ninety (90) days for registered mail sent from the U.S. to reach Pakistan. *See* 65 FR 81,822. In other words, the ninety (90) days period was case specific it did not establish a bright line rule to be applied to all BIS cases.

In the present case, BIS presented no evidence concerning the maximum amount of time it takes registered mail sent from the U.S. to reach the UK. Without such evidence BIS's argument fails.

The Date of Successful Delivery of the Charging Letter on September 4, 2007 to Respondent's Last Known E-mail Addresses and the Date in Which the Charging Letter Was Received by F. Lynn Via FedEx Are Not Acceptable as the Date of Service

BIS's alternative argument raised in its Motion for Default is that September 4, 2007 or September 18, 2007 could be deemed the date of service. September 4, 2007 is the date when two messages containing the Charging Letter were successfully relayed to Respondent's last known e-mail addresses. Conversely, September 18, 2007 is the date in which F. Lynn signed for the FedEx package containing the Charging Letter sent to Respondent's last known alternate business address. The problem with both methods of service is that they are not authorized under 15 CFR 766.3(b) as an acceptable means of obtaining service. As such, BIS's alternative argument is rejected.

(3) September 20, 2007 Is the True Date of Service

Third, in its supplemental Motion for Default Order, BIS argues that the date of service should be September 20, 2007, which is the date delivery of the Charging Letter by registered mail was ''refused.'' This argument is well taken.

BIS has established that in a good-faith effort to provide Respondent with notice of the Charging Letter, a courtesy copy was sent via registered mail on September 4, 2007 to Respondent at an alternate address located at 35 Miller Road in accordance with 15 CFR 766.3(b). BIS presented evidence that on September 20, 2007 delivery of the Charging Letter was attempted and ''refused.'' Thus, under 15 CFR 766.3(c), September 20, 2007 is deemed the effective date of service based on the ''refusal.'' This means that 15 CFR 766.6(a) required Mr. Manzarpour to file an Answer to the Charging Letter no later than October 30, 2007 (i.e., 30 days after service of the Charging Letter). To date, Respondent has not filed an Answer. Accordingly, BIS is entitled to a default judgment, and Respondent is deemed to have waived his right to appear and contest the allegations in the Charging Letter.

IV. Conclusion of Law

Pursuant to the default procedures set forth in 15 CFR 766.7, Manzarpour is found to have committed one violation of Section 764.2(b), one violation of Section 764.2(e), and one violation of Section 764.2(h) as alleged in the Charging Letter.

V. Penalty Assessment

Section 764.3 of the EAR sets forth the sanctions BIS may seek for violations. The sanctions include: (i) A monetary penalty; (ii) suspension from practice before BIS, and (iii) denial of export privileges. *See* 15 CFR 766.3. A denial order may be considered an appropriate sanction even in matters involving simple negligence or carelessness, if the violation involves ''harm to the national security or other essential interests protected by the export control system,'' if the violations are of such a nature and extent that a monetary fine alone represents an insufficient penalty. *See* 15 CFR Part 766, Supp. No. 1, III, A.

Based on the severity of Mr. Manzarpour's actions, a 20-year denial of Mr. Manzarpour's export privileges is recommended. Such a denial order is consistent with sanctions imposed in similar cases. For instance, in *In re Yaudat Mustafa Talvi a/k/a Yaudat Mustafa a/k/a Joseph Talvi,* the Under Secretary affirmed a 20-year denial order and civil penalty of $121,000 for the unauthorized export of oil field parts to Libya where respondent solicited a violation of the EAR with knowledge that a violation would occur. 69 FR 77,177 (Dec. 27, 2004). Similarly, in *In re Daqing Zhou,* a 20-year denial order was affirmed where respondent conspired to export and caused the export of items controlled for national security reasons to China without the required license and with knowledge that a violation would occur. 71 FR 65,775.

In this case, BIS established that a 20-year denial order is appropriate because of Mr. Manzarpour's severe disregard for U.S. export laws and regulations. The facts found proved shows that Mr. Manzarpour caused a violation of the EAR by ordering a freight forwarder to export a single engine aircraft to Iran without the required U.S. government authorization. (BIS Ex. C, L, M, P and R). The aircraft was classified under ECCN 9A991.b and controlled for anti-terrorism (AT) reasons. The facts found proved also establish that Mr. Manzarpour knew that the U.S.-origin item could not be sold to sanction countries, such as Iran; a fact Mr. Manzarpour acknowledged during an interview with UK Customs officials. (BIS Ex. C, O at 11–13). Yet, Mr. Manzarpour failed to disclose the aircraft's ultimate destination from U.S. suppliers in an attempt to evade the EAR. Therefore, no OFAC authorization was obtained for the transaction. (BIS Ex. P).

These actions cannot be condoned. The 20-year denial order is further supported where, as in this case, Respondent shows a history of attempting to evade U.S. export control laws and regulations. BIS presented evidence that there is a pending criminal indictment against Mr. Manzarpour in the U.S. District Court for the District of Columbia involving the acts described in the Charging Letter as well as other exports and attempted exports of items subject to the EAR from the United States to Iran via Austria. (BIS Ex. S). BIS presented additional evidence that Mr. Manzarpour has indicated in public statements to UK media that the transactions are legal. (BIS Ex. T at 4). Given his past actions and recent statements, there is a strong likelihood that future sales of U.S.-origin goods would be diverted to Iran in violation of the Iranian Transaction Regulations and the EAR. Future detection of such violations might prove difficult given the fact that Mr. Manzarpour lives and operates business abroad.

In light of the above, denial of Mr. Manzarpour's U.S. export privileges is an appropriate sanction. This is especially true given the fact assessment of a monetary penalty alone might prove inadequate and, based on Mr. Manzarpour's business operations abroad, BIS would likely face difficulties collection a monetary penalty.

VI. Recommended Order [6]

[Redacted Section]

Accordingly, this Recommended Decision and Order is being referred to the Under Secretary for Industry & Security for review and final action for the agency, without further notice to the respondent as provided in Section 766.7 of the Regulations.

Pursuant to Section 766.22(b), the parties have 12 days from the date of issuance of this recommended decision and order in which to submit simultaneous responses. Parties thereafter shall have eight days from receipt of any response(s) in which to submit replies. Any response or reply must be received within the time specified by the Under Secretary. Within 30 days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order. *See* 15 CFR 766.22(c).

Done and dated February 4, 2008, Baltimore, Maryland.

Joseph N. Ingolia,

Administrative Law Judge, U.S. Coast Guard [7]

[FR Doc. 08–974 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DT–M

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, as amended by Pub. L. 106–36; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a)(3) and (4) of the regulations and be postmarked on or before March 26, 2008. Address written comments to Statutory Import Programs Staff, Room 2104, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. at the U.S. Department of Commerce in Room 2104.

Docket Number: 08–004. *Applicant:* VA Connecticut Healthcare System, Neuroscience Research Center (127A), VA Connecticut Healthcare System, 950 Campbell Avenue, West Haven, CT 06516. *Instrument:* Electron Microscope, Model JEM–1011. *Manufacturer:* Jeol, Inc., Japan. *Intended Use:* The instrument is intended to be used to examine the molecular ultrastructure of brain, spinal cord and other nervous tissue samples obtained from control and experimental animals. The objectives of these research investigations are to understand the mechanisms of nerve cell damage and loss following injury and to examine the efficacy of different therapeutic interventions that can eliminate or minimize dysfunction following nervous system injury. *Application accepted by Commissioner of Customs:* February 8, 2008.

Docket Number: 08–005. *Applicant:* University of Utah, 201 S. President's Circle, Salt Lake City, UT 84112. *Instrument:* Electron Microscope, Model 600 Quanta FEG. *Manufacturer:* FEI Company, Czech Republic. *Intended Use:* The instrument is intended to be used primarily for electron beam lithography as well as chemical characterization of a wide variety of materials. The instrument will be used to measure the size and chemical composition of nanoparticles and nanostructures. It will also be used to create nanostructures using electron beam lithography. *Application accepted by Commissioner of Customs:* February 17, 2008.

Docket Number: 08–006. *Applicant:* Advocate Lutheran General Hospital—Em/Pathology, 1775 Dempster, 5th Floor, Park Ridge, IL 60068. *Instrument:* Electron Microscope, Model H–7650. *Manufacturer:* Hitachi High-Technologies Corp., Japan. *Intended Use:* The instrument is intended to be used primarily as a tool in the pathologic diagnosis of human diseases, mainly in: (a) Kidney biopsies, to aid in the diagnosis of medical and certain hereditary kidney diseases; (b) biopsies and/or resections of certain undifferentiated cancers; (c) biopsies of muscles, nerves, or brain, to identify certain metabolic and hereditary disorders of these organs; and (d) biopsies of the respiratory and alimentary tracts, to identify certain developmental disorders of these organs. It will also be used to aid in the training of physician residents in pathology during their rotations in Nephropathology and Surgical Pathology. *Application accepted by Commissioner of Customs:* February 12, 2008.

Dated: March 3, 2008.

Faye Robinson,

Director, Statutory Import Programs Staff.

[FR Doc. E8–4407 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–821]

Certain Hot-Rolled Carbon Steel Flat Products From India: Notice of Extension of Final Results of Countervailing Duty Administrative Review

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

FOR FURTHER INFORMATION CONTACT: John Conniff at (202) 482–1009, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave, NW., Washington, DC 20230.

Background

On December 1, 2006, the Department published a notice of opportunity to request an administrative review of this CVD order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 71 FR 69543 (December 1, 2006) (*Opportunity to Request Review*).[1] On January 9, 2008, the Department published the preliminary results of this review. *See Certain Hot-Rolled Carbon Steel Flat Products from India: Notice of Preliminary Results of Countervailing Duty Administrative Review,* 73 FR 1578 (January 9, 2008). The final results of this review are currently due no later than May 8, 2008.

Extension of Time Limit of Final Results

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue 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 that time period, section 751(a)(3)(A) of the Act allows the

[6]

[7] United States coast Guard Administrative Law Judges perform adjudicatory functions required for the Bureau of Industry and Security with approval from the Office of Personnel Management pursuant to a memorandum of understanding between the Coast Guard and the Bureau of Industry and Security.

[1] On December 18, 2006, we published a correction to the notice of Opportunity to Request Review to correct the POR. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review; Correction,* 71 FR 75709 (December 18, 2006).

Department to extend the time limit for the final results to a maximum of 180 days. *See also* 19 CFR 351.213(h)(2).

We determine that it is not practicable to complete the final results of this review within the original time limit. Several technical issues arose after the preliminary results which require the collection and analyses of certain additional information and verification of the information. Therefore, to allow sufficient time to collect and analyze the additional information, and to conduct the briefing process, the Department is fully extending the final results. The final results are now due not later than July 7, 2008, 180 days from publication of the preliminary results. The amended schedule for interested parties to submit case briefs, written comments, and/or request a hearing is not later than seven days after the release of the last verification report. Rebuttal briefs are limited to issues raised in such briefs or comments and may be filed no later than five days after the time limit for filing the case briefs or comments. *See* 19 CFR 351.309(d). Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs.

This extension is in accordance with section 751(a)(3)(A) of the Act and 19 CFR 351.213(h)(2).

Dated: February 29, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4427 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–469–814]

Chlorinated Isocyanurates from Spain: Extension of Time Limit for Preliminary Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: (March 6, 2008.

FOR FURTHER INFORMATION CONTACT: Scott Lindsay, 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) 482–0780.

SUPPLEMENTARY INFORMATION:

Background

On July 2, 2007, the Department of Commerce (the Department) received a timely request for an administrative review of the antidumping duty order on chlorinated isocyanurates from Spain, with respect to Aragonesas Industrias y Energía S.A. (''Aragonesas''). On July 26, 2007, the Department published a notice of initiation of this administrative review for the period of June 1, 2006 through May 31, 2007. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews and Request for Revocation In Part*, 72 FR 41057 (July 26, 2007).

Extension of Time Limit for Preliminary Results

Pursuant to section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department shall issue preliminary results in an administrative review of an antidumping duty order within 245 days after the last day of the anniversary month of the date of publication of the order. The Act further provides, however, that the Department may extend that 245–day period to 365 days if it is not practicable to complete the review within the foregoing time period.

The Department finds that it is not practicable to complete the preliminary results by the current deadline of March 3, 2008, because additional time is needed to analyze issues involving affiliations and collapsing. Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for the preliminary results until no later than June 30, 2008, which is 365 days after the last day of the anniversary month of the date of publication of the order. Unless extended, the final results continue to be due 120 days after the publication of the preliminary results, pursuant to section 751(a)(3)(A) of the Act and section 351.213(h) of the Department's regulations.

This notice is issued and published in accordance to sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 15, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4397 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DR–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the New Shipper Reviews

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

EFFECTIVE DATE: March 6, 2008.

FOR FURTHER INFORMATION CONTACT: Julia Hancock and Paul Walker, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1394 or (202) 482–0413, respectively.

Background

On July 12, 2007 the Department published a notice of initiation of new shipper reviews of fresh garlic from the PRC covering the period November 1, 2006 through April 30, 2007. *See Fresh Garlic from the People's Republic of China: Initiation of New Shipper Reviews*, 72 FR 38057 (July 12, 2007). On November 16, 2007 the Department extended the preliminary results of these new shipper reviews by ninety days. *See Fresh Garlic from the People's Republic of China: Extension of Time Limits for the Preliminary Results of the New Shipper Reviews*, 72 FR 64579 (November 16, 2007). The preliminary results of these new shipper reviews are currently due no later than March 25, 2008.

Statutory Time Limits

Section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the ''Act''), provides that the Department will issue the preliminary results of a new shipper review of an antidumping duty order within 180 days after the day on which the review was initiated. *See also* 19 CFR 351.214 (i)(1). The Act further provides that the Department may extend that 180–day period to 300 days if it determines that the case is extraordinarily complicated. *See* 19 CFR 351.214 (i)(2).

Extension of Time Limit of Preliminary Results

The Department determines that these new shipper reviews involve extraordinarily complicated methodological issues such as the use of intermediate input methodology, potential affiliation issues, the examination of importer information

and the evaluation of the *bona fide* nature of each company's sales. Therefore, in accordance with section 751(a)(2)(B)(iv) of the Act and 19 CFR 351.214(i)(2), the Department is extending the time limit for these preliminary results by 30 days, until no later than April 24, 2008. The final results continue to be due 90 days after the publication of the preliminary results.

We are issuing and publishing this notice in accordance with sections 751(a)(2)(B)(iv) and 777(i) of the Act.

Dated: February 22, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–4390 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[C–489–502]

Certain Welded Carbon Steel Standard Pipe from Turkey: Final Results of Countervailing Duty Administrative Review

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

SUMMARY: On November 7, 2007, the Department of Commerce (''the Department'') published in the **Federal Register** its preliminary results of administrative review of the countervailing duty (''CVD'') order on certain welded carbon steel standard pipe from Turkey for the period January 1, 2006, through December 31, 2006. *See Certain Welded Carbon Steel Standard Pipe from Turkey: Preliminary Results of Countervailing Duty Administrative Review*, 72 FR 62837 (November 7, 2007) (''Pipe Preliminary Results''). The Department preliminarily found that the Borusan Group (''Borusan''), the producer/exporter of subject merchandise covered by this review, had a *de minimis* net subsidy rate for the period of review (''POR''). We did not receive any comments on our preliminary results and have made no revisions to those results.

EFFECTIVE DATE: (March 6, 2008..)

FOR FURTHER INFORMATION CONTACT: Kristen Johnson, AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4793.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1986, the Department published in the **Federal Register** the CVD order on certain welded carbon steel pipe and tube products from Turkey. *See Countervailing Duty Order: Certain Welded Carbon Steel Pipe and Tube Products from Turkey*, 51 FR 7984 (March 7, 1986). On November 7, 2007, the Department published in the **Federal Register** the preliminary results for this review. *See Pipe Preliminary* Results, 72 FR 62837. In accordance with 19 CFR 351.213(b), this review covers Borusan, the only producer/exporter of the subject merchandise for which a review was specifically requested.[1] In the *Pipe Preliminary Results*, we invited interested parties to submit case briefs commenting on the preliminary results, but none were filed. We also did not hold a hearing in this review, as one was not requested.

Scope of Order

The products covered by this order are certain welded carbon steel pipe and tube with anoutside diameter of 0.375 inch or more, but not over 16 inches, of any wall thickness (pipe and tube) from Turkey. These products are currently provided for under the Harmonized Tariff Schedule of the United States (''HTSUS'') as item numbers 7306.30.10, 7306.30.50, and 7306.90.10. Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Final Results of Review

As noted above, the Department received no comments concerning the preliminary results. Therefore, consistent with the *Pipe Preliminary Results*, we continue to find that Borusan had a *de minimis* net subsidy rate for the POR. In accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (''the Act''), we calculated a total net subsidy rate of 0.23 percent *ad valorem*, which is *de minimis*, pursuant to 19 CFR 351.106(c). As there have been no changes to or comments on the preliminary results, we are not attaching a decision memorandum to this **Federal Register** notice. For further details of the programs included in this proceeding, see the *Pipe Preliminary Results*.

Assessment Rates/Cash Deposits

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (''CBP'') 15 days after the date of publication of these final results, to liquidate shipments of subject merchandise by Borusan entered, or withdrawn from warehouse, for consumption on or after January 1, 2006, through December 31, 2006, without regard to countervailing duties because a *de minimis* subsidy rate was calculated. We will also instruct CBP not to collect cash deposits of estimated countervailing duties on shipments of the subject merchandise by Borusan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

For all non–reviewed companies, we will instruct CBP to continue to collect cash deposits at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed administrative proceeding for each company. These rates shall apply to all non–reviewed companies until a review of a company assigned these rates is requested.

Return or Destruction of Proprietary Information

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: February 28, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–4419 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DS–S

[1] During the POR, Borusan was comprised of Borusan Mannesmann Boru Sanayi ve Ticaret A.S., Borusan Istikbal Ticaret T.A.S., and affiliates.

DEPARTMENT OF COMMERCE

International Trade Administration

A–351–838

Certain Frozen Warmwater Shrimp from Brazil: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Brazil with respect to 15 companies.[1] The respondents which the Department selected for individual review are Amazonas Industrias Alimenticias S.A. (''AMASA'') and Comercio de Pescado Aracatiense Ltda. (''Compescal''). Compescal did not respond to the Department's request for information in this review. For further discussion, see the ''Use of Facts Available'' section of this notice. The respondents which were not selected for individual review are listed in the ''Preliminary Results of Review'' section of this notice. This is the second administrative review of this order. The period of review (''POR'') is February 1, 2006, through January 31, 2007.

We preliminarily determine that sales made by AMASA have been made below normal value (''NV''). In addition, 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, based on the preliminary results for the respondents selected for individual review. To those companies which were not responsive to the Department's requests for information, we have preliminarily assigned a margin based on adverse facts available (''AFA'').

If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: March 6, 2008.).

FOR FURTHER INFORMATION CONTACT: Kate Johnson or Rebecca Trainor, AD/CVD Operations, Office 2, Import Administration–Room 1117, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4929 or (202) 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

Background

In February 2005, the Department published in the **Federal Register** an antidumping duty order on certain frozen warmwater shrimp from Brazil. *See Notice of Amended Final Determination and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Brazil*, 70 FR 5143 (February 1, 2005) (''*Shrimp Order*''). On February 2, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain frozen warmwater shrimp from Brazil for the period February 1, 2006, through January 31, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 5007 (February 2, 2007). On February 28, 2007, the petitioner[2] and the Louisiana Shrimp Association (''LSA''), a domestic interested party, requested an administrative review for numerous Brazilian exporters of subject merchandise in accordance with section 751(a) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.213(b)(2)(1).

On April 5, 2007, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. See ''Duty Absorption'' section below for further discussion.

On April 6, 2007, the Department initiated an administrative review for 40 companies and requested that each company provide data on the quantity and value (''Q&V'') of its exports of subject merchandise to the United States during the POR for mandatory respondent selection purposes. These companies are listed in the Department's notice of initiation. *See Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India and Thailand*, 72 FR 17100 (April 6, 2007) (''*Notice of Initiation*'').

In its April 18, 2007, entry of appearance, Empresa De Armazenagem Frigorifica Ltda., (''Empaf'') notified the Department that its name changed to Netuno Alimentos S.A., Maricultura Netuno S.A. and Netuno USA, Inc. (collectively ''Netuno''). As a result, on April 24, 2007, we solicited information on this name change from Netuno. Netuno supplied this information on May 9, 2007. After analyzing this information, we preliminarily find that Netuno is the successor–in-interest to Empaf. For further discussion, see the ''Successor–in-Interest'' section of this notice, below.

During the period April through September 2007, we received responses to the Department's Q&V questionnaire from 26 potential respondents. Eighteen of these companies reported that they had no shipments/exports of subject merchandise to the United States during the POR. We also received timely requests for withdrawal of the review with respect to certain companies. Accordingly, of the 40 named firms for which the Department initiated an administrative review, eight entities had both an active request for review and an appropriately submitted Q&V questionnaire response which indicates exports to the United States during the POR.

Based upon our consideration of the responses to the Q&V questionnaire 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 request remained. As a result, on July 19, 2007, we selected the two largest remaining producers/exporters by export volume of certain frozen warmwater shrimp from Brazil during the POR, AMASA and Compescal, as the mandatory respondents in this review. *See* Memorandum to Stephen Claeys, Deputy Assistant Secretary for Import Administration, from James Maeder, Director, Office 2, AD/CVD Operations, entitled ''2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Brazil: Selection of Respondents for Individual Review,'' dated July 19, 2007. On July 20, 2007, we issued the antidumping questionnaire to AMASA and Compescal.

On August 24, 2007, we published a notice rescinding the administrative review with respect to 22 companies in accordance with 19 CFR 351.213(d)(1). For further discussion, *see Certain Frozen Warmwater Shrimp from Brazil; Partial Rescission of Antidumping Duty Administrative Review*; 72 FR 48616 (August 24, 2007).

We received a response to section A of the questionnaire from AMASA on August 24, 2007. We received a

[1] This figure does not include those companies for which the Department is preliminarily rescinding the administrative review. See ''Partial Rescission of Review'' section for further discussion.

[2] The petitioner is the Ad Hoc Shrimp Trade Action Committee.

response to sections B and C of the questionnaire from AMASA on September 24, 2007.

On October 9, 2007, the petitioner requested that the Department initiate a sales–below-cost investigation of AMASA. On October 26, 2007, we initiated this investigation. *See* Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled ''Petitioner's Allegation of Sales Below the Cost of Production for Amazonas Industrias Alimenticias S.A.,'' dated October 26, 2007.

On October 26, 2007, the Department postponed the preliminary results in this review until no later than February 28, 2008. *See Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India, Thailand, and the Socialist Republic of Vietnam: Notice of Extension of Time Limits for the Preliminary Results of the Second Administrative Reviews*, 72 FR 60800 (October 26, 2007).

We issued a supplemental questionnaire to AMASA on October 25, 2007, and received a response on November 20, 2007.

AMASA submitted a response to section D of the questionnaire on December 4, 2007. We issued supplemental questionnaires to AMASA with respect to section D on December 14, 2007, January 9, 2008, and February 5, 2008, and received responses to these supplemental questionnaires on December 31, 2007, January 22, 2008, and February 12, 2008.

On January 14 and 18, 2008, the petitioner and LSA, respectively, withdrew their requests for administrative review of AMASA and requested that the Department rescind the current administrative review of that company. On January 18, 2008, we issued letters to the petitioner and LSA stating that we were unable to grant their requests because the requests were not timely and the Department had already expended significant resources in this administrative review.

The sales verification was conducted during the period January 22–24, 2008, and the report of the Department's findings was issued on February 11, 2008. The cost verification will take place following the preliminary results.

At the request of the Department, AMASA submitted revised U.S. and home market sales databases on February 13, 2008.

On February 22, 2008, AMASA submitted comments with respect to the calculation of AMASA's preliminary antidumping margin. These comments were received too late for consideration in the preliminary results. However, if these issues are raised in the context of parties' case briefs, we will address the issues in the final results.

Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild–caught (ocean harvested) or farm–raised (produced by aquaculture), head–on or head–off,[3] shell–on or peeled, tail–on or tail–off, deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (''HTSUS''), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild–caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn *(Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: 1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell–on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain battered shrimp. Dusted shrimp is a shrimp–based product: 1) that is produced from fresh (or thawed–from-frozen) and peeled shrimp; 2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; 3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; 4) with the non–shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and 5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp–based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par–fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

Partial Rescission of Review

On September 13, 2007, Qualimar Comercio Imp. E Exp. Ltda. (''Qualimar'') submitted a Q&V response stating that it had no shipments/exports of subject merchandise to the United States during the POR. *See* Memorandum to The File from Rebecca Trainor, Senior Analyst, Office 2, entitled ''2006–2007 Administrative Review of Certain Frozen Warmwater Shrimp from Brazil: Qualimar Comercio Importacao e Exportacao Ltda.,'' dated August 17, 2007. Data from CBP show that Qualimar did not have shipments of subject merchandise during the POR. Therefore, we are preliminarily rescinding this review with respect to Qualimar.

Successor–in-Interest

As noted above, on April 18, 2007, Empaf informed the Department that it is now doing business as Netuno. On April 24, 2007, we requested that Netuno address the following four factors with respect to this change in corporate structure in order to determine whether Netuno is the

[3] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

successor–in-interest to Empaf: management, production facilities for the subject merchandise, supplier relationships, and customer base.

On May 9, 2007, Netuno responded to the Department's request. In this submission, Netuno confirmed that it is the successor–in-interest to Empaf. Specifically, Netuno stated that there were no changes to Empaf's management, production facilities for the subject merchandise, supplier relationships, or customer base as a result of the change in corporate structure. Based on our analysis of Netuno's May 9, 2007, submission, we find that its organizational structure, management, production facilities, supplier relationships, and customers have remained essentially unchanged. Further, we find that Netuno operates as the same business entity as Empaf with respect to the production and sale of certain frozen warmwater shrimp. Thus, we preliminarily find that Netuno is the successor–in-interest to Empaf, and, as a consequence, its exports of certain frozen warmwater shrimp are subject to this proceeding.

Facts Available

Section 776(a) of the Act provides that the Department will apply ''facts otherwise available'' if, *inter alia*, necessary information is not available on the record or an interested party: 1) withholds information that has been requested by the Department; 2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

As discussed in the ''Background'' section, above, in April 2007, the Department requested that all companies subject to review respond to the Department's Q&V questionnaire for purposes of mandatory respondent selection. The original deadline to file a response was April 23, 2007. The following seven firms did not respond to the Department's request for information: 1) Acarau Pesca Distr. de Pescado Imp. E Exp. Ltda.; 2) Aquacultura Fortaleza Aquafort SA; 3) ITA Fish - S.W.F. Importacao e Exportacao Ltda.; 4) Orion Pesca Ltda.; 5) Santa Lavinia Comercio e Exportacao Ltda.; 6) Secom Aquicultura Comercio E Industria SA; and 7) Tecmares Maricultura Ltda. In May and June 2007, we issued letters to these companies affording them a second and third opportunity to respond to the Q&V questionnaire; however, none of the companies responded or submitted a Q&V questionnaire response. By failing to respond to the Department's Q&V questionnaire, these companies withheld requested information and significantly impeded the proceeding. Thus, pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department preliminarily finds that the use of total facts available is appropriate for these firms.

Compescal, one of the two mandatory respondents in this administrative review, also did not submit a response to the antidumping questionnaire. On August 29, 2007, we sent a letter to the company advising it that we had not received its questionnaire response. If it had indeed sent a response, we asked Compescal to provide the courier tracking number so we could locate the submission. We also reiterated the statement included in the cover letter to the questionnaire issued to Compescal that failure to respond to the Department's questionnaire may result in the use of AFA as required by section 776 of the Act for the determinations in this administrative review. We received no response to our letter. Therefore, pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department preliminarily finds that the use of total facts available is appropriate for Compescal.

Application of Adverse Facts Available and Corroboration

In selecting from among the facts otherwise available, section 776(b) of the Act authorizes the Department to use an adverse inference if the Department finds that an interested party failed to cooperate by not acting to the best of its ability to comply with the request for information. *See*, *e.g.*, *Notice of Final Results of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 70 FR 54023, 54025–26 (Sept. 13, 2005); *see also 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 (Aug. 30, 2002). 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. Rep. No. 103–316, Vol. 1, at 870 (1994) (''SAA''). 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 (Fed. Cir. 2003) (''*Nippon*''). We find that Acarau Pesca Distr. de Pescado Imp. E Exp. Ltda., Aquacultura Fortaleza Aquafort SA, Compescal, ITA Fish - S.W.F. Importacao e Exportacao Ltda., Orion Pesca Ltda., Santa Lavinia Comercio e Exportacao Ltda., Secom Aquicultura Comercio E Industria SA, and Tecmares Maricultura Ltda. did not act to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act, because they failed to respond to the Department's requests for information. Therefore, an adverse inference is warranted in selecting from among the facts otherwise available. *See Nippon*, 337 F. 3d at 1382–83.

For purposes of the preliminary results, we have applied to the above–listed companies an AFA margin of 68.15 percent, which is the highest rate determined for any respondent in any segment of the proceeding (*i.e.*, the less–than-fair–value (''LTFV'') investigation, the first administrative review, or the instant review). The Court of International Trade (''CIT'') and the Court of Appeals for the Federal Circuit have consistently upheld this approach. *See NSK Ltd. v. United States*, 346 F. Supp. 2d 1312, 1335 (CIT 2004) (upholding a 73.55 percent total AFA rate, the highest available dumping margin from a different respondent in an LTFV investigation).

Section 776(b) of the Act provides that the Department may use as AFA information derived from: 1) the petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record. The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse ''as to effectuate the statutory purposes of the AFA rule 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).

Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information used as facts available from independent sources reasonably at its disposal. The Department's regulations provide that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* 19 CFR

351.308(d); *see also* SAA at 870. Information from prior segments of the proceeding constitutes secondary information and, to the extent practicable, the Department will examine the reliability and relevance of the information to be used.

In selecting an appropriate AFA rate, the Department considered: 1) the rates alleged in the petition (*see Notice of Initiation of Antidumping Duty Investigations: Certain Frozen and Canned Warmwater Shrimp From Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam*, 69 FR 3876, 3879 (January 27, 2004)); 2) the rates calculated in the final determination of the LTFV investigation, which ranged from 9.69 to 67.80[4] percent (*see Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from Brazil*, 69 FR 76910 (December 23, 2004; and *Shrimp Order*); 3) the rates calculated in the 2004–2006 administrative review, which ranged from 4.62 to 15.41 percent (*see Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52061 (September 12, 2007); and 4) the rate calculated for the sole participating respondent in the current administrative review (68.15 percent).

For purposes of the preliminary results, we did not use either of the two highest of the three petition rates (*i.e.*, 320 percent and 349 percent) because we were unable to corroborate them with independent information reasonably at our disposal, *i.e.*, the transaction–specific margins in the current administrative review. We did not use the remaining petition rate (*i.e.*, 32 percent) because it was lower than the current AFA rate, and as such would not accomplish the objectives of AFA, stated above.

In addition, we find that the rates calculated for the respondents in the LTFV investigation and the 2004–2006 review are not sufficiently high as to effectuate the purpose of the facts available rule (*i.e.*, we do not find that these rates are high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act). Therefore, we have assigned a rate of 68.15 percent as AFA, which is the highest margin determined for any respondent in any segment of the proceeding (*i.e.*, the current administrative review). We consider the 68.15 percent rate to be sufficiently high so as to encourage participation in future segments of this proceeding. No corroboration of this rate under section 776(c) of the Act is necessary because we are relying on information obtained in the course of the current segment of the proceeding, rather than on secondary information.

The Department will also consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin. *See*, *e.g.*, *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 calculated margin as AFA because the margin was based on a company's uncharacteristic business expense resulting in an unusually high margin). For the instant review, we examined whether any information on the record would discredit the selected rate as reasonable facts available and found none. Because we did not find evidence indicating that the margin selected as AFA in this review is not appropriate, we have determined that the highest margin calculated for any respondent in any segment of the proceeding (*i.e.*, 68.15 percent) is appropriate to use as AFA, and are assigning this rate to Acarau Pesca Distr. de Pescado Imp. E Exp. Ltda., Aquacultura Fortaleza Aquafort SA, Compescal, ITA Fish - S.W.F. Importacao e Exportacao Ltda., Orion Pesca Ltda., Santa Lavinia Comercio e Exportacao Ltda., Secom Aquicultura Comercio E Industria SA, and Tecmares Maricultura Ltda. in the preliminary results of this review.

Duty Absorption

On April 5, 2007, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Although this review was initiated two years after the publication of the order, AMASA, the only cooperative mandatory respondent in this review, did not sell subject merchandise in the United States through an affiliated importer. Therefore, it is not appropriate to make a duty absorption determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Act. *See Agro Dutch Industries Ltd. v. United States*, No. 2007–1011 (Fed. Cir. November 20, 2007).

Comparisons to Normal Value

To determine whether sales of certain frozen warmwater shrimp by AMASA to the United States were made at less than NV, we compared export price (''EP'') to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted–average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the ''Cost of Production Analysis'' section below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by AMASA covered by the description in the ''Scope of the Order'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Pursuant to 19 CFR 351.414(e)(2), we compared U.S. sales to sales made in the home market within the contemporaneous window period, which extends from three months prior to the month of the U.S. sale until two months after the sale. 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 sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by AMASA in the following order: cooked form, head status, count size, organic certification, shell status, vein status, tail status, other shrimp preparation, frozen form, flavoring, container weight, presentation, species, and preservative. In addition, we compared whole shrimp to whole shrimp and broken shrimp to broken shrimp, where possible.

AMASA reported cost differences associated with two quality–related physical characteristics: 1) whole vs. broken shrimp; and 2) premium grade shrimp vs. shrimp that is part of an all

[4] This margin was based on the rate we calculated for respondent Norte Pesca S.A. in the preliminary determination of the LTFV investigation, based on information it submitted in its questionnaire responses. Although this company withdrew from the investigation after the preliminary determination, this rate was used as the AFA rate in the final determination.

other' category of grades. We allowed the differentiation of costs by broken/non–broken shrimp because AMASA's records differentiate costs on this basis[5] and such treatment is consistent with our normal practice in this proceeding to match whole shrimp with whole shrimp and broken shrimp with broken shrimp, where possible. *See*, *Certain Frozen Warmwater Shrimp from Brazil: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10680 (March 9, 2007) and *Certain Frozen Warmwater Shrimp from Brazil: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52061 (September 12, 2007) (unchanged in final). However, because we have never distinguished shrimp by grade in the context of this proceeding and AMASA has not provided sufficient evidence warranting a change to the Department's product comparison criteria in this review, we have disallowed product comparisons by grade as well as the differentiation of costs by grade.

Export Price

For all U.S. sales made by AMASA, we applied the EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price (''CEP'') methodology was not otherwise warranted based on the facts of record.

We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made adjustments to the starting price for billing adjustments. We made deductions from the starting price for foreign inland freight and foreign brokerage 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 was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

Because AMASA's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that its home market was viable. Therefore, we used home market sales as the basis for NV in accordance with section 773(a)(1)(B) of the Act.

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

During the POR, AMASA sold the foreign like product to affiliated customers (employees). To test whether these sales were made at arm's–length prices, we compared, on a product–specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all taxes, discounts and rebates, movement charges, direct selling expenses, and packing expenses, where applicable. Pursuant to 19 CFR 351.403(c) and in accordance with the Department's practice, where the price to the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to unaffiliated parties, we determined that 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, 69187 (Nov. 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 percent 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 comparison 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. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (''LOT'') as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id.*; *See also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (''*Plate from South Africa*''). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices), we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc. v. United States*, 243 F. 3d 1301, 1314 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Plate from South Africa*, 62 FR at 61732–33.

In this administrative review, we obtained information from AMASA regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities it performed for each channel of distribution. AMASA reported that it made EP sales in the U.S. market through a single channel of distribution (*i.e.*, direct sales to distributors). We examined the selling activities performed for this channel, and found that AMASA performed the following selling functions: sales forecasting and strategic/economic planning, sales promotion, packing, order input/processing, direct sales personnel, sales/marketing support, freight services and provision of guarantees. These selling activities can be generally grouped into two core selling function categories for analysis: 1) sales and marketing; and 2) freight and delivery services. Because all sales in the United States are made through a single distribution channel, we

[5] During the POR, AMASA purchased all of the raw shrimp it used in the production of subject merchandise, and its purchase prices differed depending on whether the shrimp was whole or broken.

preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, AMASA made sales to distributors (or customers of distributors). We examined the selling activities performed for this channel, and found that AMASA performed the following selling functions: sales forecasting and strategic/economic planning, sales promotion, packing, order input/processing, direct sales personnel, sales/marketing support, payment of commissions, and provision of guarantees. These selling activities can be generally grouped into one core selling function category for analysis: sales and marketing. Accordingly, based on the core selling functions, we find that AMASA performed sales and marketing for all home market sales. We do not find the fact that commissions are not provided for certain home market sales sufficient to establish a separate LOT. Accordingly, we preliminarily determine that there is one LOT in the home market.

Finally, we compared the EP LOT to the home market LOT and found that the core selling functions performed for U.S. and home market customers are virtually identical, with the exception of freight/delivery services and the payment of commissions. We do not find these differences sufficient to determine that the U.S. and home market sales are made at different LOTs. Therefore, we determined that sales to the U.S. and home markets during the POR were made at the same LOT, and as a result, no LOT adjustment is warranted.

D. Cost of Production Analysis

Based on our analysis of the petitioner's allegation, we found that there were reasonable grounds to believe or suspect that AMASA's sales of frozen warmwater shrimp in the home market were made at prices below its cost of production (''COP''). Accordingly, pursuant to section 773(b) of the Act, we initiated a sales–below-cost investigation to determine whether AMASA's sales were made at prices below its COP. *See* Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled ''Petitioner's Allegation of Sales Below the Cost of Production for Amazonas Industrias Alimenticias S.A.,'' dated October 26, 2007.

1. Calculation of Cost of Production

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

The Department relied on the COP data submitted by AMASA in its February 12, 2008, supplemental response to section D of the questionnaire for the COP calculation, except for the following instances where the information was not appropriately quantified or valued.

1. We disallowed the differentiation of costs for different grades of shrimp.
2. We increased AMASA's total reported cost of manufacturing (''COM'') by the unreconciled difference between AMASA's total COM for the POR based on its normal books and records and the total POR COM submitted to the Department.
3. We increased AMASA's reported G&A expenses to include other non–operating costs.
4. We disallowed AMASA's claimed interest income offset to its reported financial expenses because AMASA failed to provide supporting evidence that the interest income was earned on short–term interest–bearing assets.

Our revisions to AMASA's COP data are discussed in the Memorandum from LaVonne Clark, Senior Accountant, to Neal Halper, Director, Office of Accounting, entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Amazonas Industrias Alimenticias, S.A,'' dated February 28, 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 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 COP exclusive of selling and packing expenses. The prices were exclusive of any applicable taxes, movement charges, discounts, direct and indirect selling expenses, and packing expenses.

3. Results of the COP Test

In determining whether to disregard home market or third country sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act: 1) whether, within an extended period of time, such sales were made in substantial quantities; and 2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Where less than 20 percent of the respondent's home market sales of a given product are at prices less than the COP, we do not disregard any below–cost sales of that product because we determine that in such instances the below–cost sales were not made within an extended period of time and in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard 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.

We found that, for certain products, more than 20 percent of AMASA's home market 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.

D. Calculation of Normal Value Based on Comparison Market Prices

We based NV on FOB prices to unaffiliated customers in the home market. We made deductions, where appropriate, from the starting price for taxes, under section 773(a)(6)(B)(iii) of the Act.

We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstance–of-sale (''COS'') for imputed credit expenses and commissions. As commissions were granted in the home market but not in the U.S. market, we deducted commissions paid in the home market from the starting price, and made an upward adjustment to NV for the lesser of 1) the amount of commissions paid in the home market, or 2) the amount of indirect selling expenses incurred in the U.S. market. With regard to credit expenses, AMASA reported that it had not received payment for certain U.S. sales. Consequently, for these sales, we used

a payment date of February 28, 2008 (*i.e.*, the date of the preliminary results), and recalculated imputed credit expenses accordingly.

We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

E. 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 those frozen warmwater shrimp products 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, SG&A, and interest based on the methodology described in the ''Cost of Production Analysis'' section, above.

We based SG&A and profit on the actual amounts incurred and realized by AMASA 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.

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.

Preliminary Results of the Review

We preliminarily determine that weighted–average dumping margins exist for the respondents for the period February 1, 2006, through January 31, 2007, as follows:

Manufacturer/Exporter	Percent Margin
Amazonas Industrias Alimenticias S.A. (''AMASA'') ..	68.15
Comercio de Pescado Aracatiense Ltda. (''Compescal'')	68.15

Review–Specific Average Rate Applicable to the Following Companies:[6]

Manufacturer/Exporter	Percent Margin
Pesqueira Maguary Ltda.	68.15
Ipesca - Industria de Frio e Pesca S.A.	68.15
Central de Industrializacao e Distribuicao de Alimentos Ltda. (''CIDA'') and Cia Exportadora de Produtos do Mar (''Produmar'')	68.15
Intermarine Servicos Nauticos Ltda.	68.15
Aquatica Maricultura do Brasil Ltda./Aquafeed do Brasil Ltda.	68.15
JK Pesca Ltda.	68.15

AFA Rate Applicable to the Following Companies:

Manufacturer/Exporter	Percent Margin
Acarau Pesca Distr. de Pescado Imp. e Exp. Ltda.	68.15
Aquacultura Fortaleza Aquafort SA	68.15
ITA Fish - S.W.F. Importacao e Exportacao Ltda.	68.15
Orion Pesca Ltda.	68.15
Santa Lavinia Comercio e Exportacao Ltda.	68.15
Secom Aquicultura Comercio E Industria SA	68.15
Tecmares Maricultura Ltda.	68.15

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). Interested parties may submit cases briefs not later than 30 days after the date of issuance of the last verification report in this case. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 35 days after the date of issuance of the last verification report in this case. 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 1117, 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 this 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 Rates

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.

Because AMASA reported the estimated entered value of its U.S. sales, we have calculated importer–specific per–unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106c)2), we will calculate 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 (*i.e.*, based on the cash deposit rate calculated for AMASA).

We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer–specific assessment rate calculated in the final results of this review 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

[6] This rate is normally 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 AFA. However, in this review, the only calculated margin is the rate applicable to AMASA, which is also the rate used for AFA purposes in this review.

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). 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. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this 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 this review, 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 previously reviewed or investigated companies not participating 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, or the original 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 7.05 percent, the all–others rate made effective by the LTFV investigation. *See Shrimp Order*. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: February 28, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–4392 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–822]

Certain Frozen Warmwater Shrimp From Thailand: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Thailand with respect to 42 [1] companies. The four respondents which the Department selected for individual review are Andaman Seafood Co., Ltd., Chanthaburi Frozen Food Co., Ltd. (CFF), Chanthaburi Seafoods Co., Ltd., Euro-Asian International Seafoods Co., Ltd., Intersia Foods Co., Ltd. (Intersia Foods) (formerly Y2K Frozen Foods Co., Ltd. (Y2K Frozen Foods)), Phattana Seafood Co., Ltd., Phattana Frozen Food Co., Ltd., S.C.C. Frozen Seafood Co., Ltd., Seawealth Frozen Food Co., Ltd., Thailand Fishery Cold Storage Public Co., Ltd., Thai International Seafoods Co., Ltd., and Wales & Co. Universe Limited (collectively ''the Rubicon Group''); Pakfood Public Company Limited and its affiliated subsidiaries, Asia Pacific (Thailand) Company Limited, Chaophraya Cold Storage Company Limited, Okeanos Company Limited, and Takzin Samut Company Limited (collectively ''Pakfood''); Thai I-Mei Frozen Foods Co., Ltd. (Thai I-Mei); and Thai Union Frozen Products Public Co., Ltd. (Thai Union Frozen), Thai Union Seafood Co., Ltd. (Thai Union Seafood) (collectively ''Thai Union''). The respondents which were not selected for individual review are listed in the ''Preliminary Results of Review'' section of this notice. This is the second administrative review of this order. The review covers the period February 1, 2006, through January 31, 2007.

We preliminarily determine that sales were made by Pakfood, the Rubicon Group, Thai I-Mei, and Thai Union 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. For those companies which were not responsive to the Department's requests for information, we have preliminarily assigned to them a margin based on adverse facts available (AFA).

If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: March 6, 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

In February 2005, the Department published in the **Federal Register** an antidumping duty order on certain frozen warmwater shrimp from Thailand. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Thailand,* 70 FR 5145 (Feb. 1, 2005) (*Shrimp Order*). On February 2, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain frozen warmwater shrimp from

[1] This figure does not include those companies for which the Department is preliminarily rescinding the administrative review.

Thailand for the period February 1, 2006, through January 31, 2007. *See Antidumping and Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 72 FR 5007 (Feb. 2, 2007). In response to timely requests from interested parties, pursuant to 19 CFR 351.213(b)(1) and (2), to conduct an administrative review of the sales of certain frozen warmwater shrimp made by numerous companies during the period of review (POR), the Department initiated an administrative review for 142 companies 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 POR. These companies are listed in the Department's notice of initiation. *See Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India and Thailand,* 72 FR 17100, 17107–09 (Apr. 6, 2007).

On April 5, 2007, the petitioner [2] requested that the Department determine whether antidumping duties had been absorbed during the POR. *See* the ''Duty Absorption'' section, below, for further discussion.

During the period April through July 2007, we received responses to the Department's Q&V questionnaire from 99 companies. We were unable to locate three companies and we did not receive responses to this questionnaire from 12 companies. For further discussion, see the ''Application of Facts Available'' section of this notice, below.

In its April 23, 2007, Q&V questionnaire response, the Rubicon Group stated that one of its affiliates, Y2K Frozen Foods, changed its corporate structure prior to the initiation of this review and is now doing business under the name Intersia Foods. As a result, on May 7, 2007, we solicited information on this change from the Rubicon Group. The Rubicon Group supplied this information on May 21, 2007. After analyzing this information, we preliminarily find that Intersia Foods is the successor-in-interest to Y2K Frozen Foods. For further discussion, see the ''Successor-in-Interest'' section of this notice, below.

On July 5, 2007, in accordance with 19 CFR 351.213(d)(1), the Louisiana Shrimp Association (LSA) withdrew its request for review for six companies (*i.e.*, Anglo-Siam Seafoods Co., Ltd., Gallant Ocean (Thailand) Co., Ltd., Li-Thai Frozen Foods Co., Ltd., Queen Marine Food Co., Ltd., Smile Heart Foods Co., Ltd., and Thai World Imports and Exports), with respect to which the petitioner also withdrew its request on March 16, 2007.

On July 16, 2007, we requested information from I.T. Foods Industries Co., Ltd. (I.T. Foods) regarding its April 24, 2007, Q&V questionnaire response stating that it had no shipments or entries of subject merchandise into the United States during the POR because, based on information obtained from CBP, it appeared that I.T. Foods did, in fact, have such shipments or entries. For further discussion, see the ''Application of Weighted-Average Margin to I.T. Foods'' section of this notice, below.

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 19, 2007, we selected the four largest producers/exporters of certain frozen warmwater shrimp from Thailand during the POR, Pakfood, the Rubicon Group, Thai I-Mei, and Thai Union, as the mandatory respondents in this proceeding. *See* the Memorandum to Stephen J. Claeys from James Maeder entitled, ''2006–2007 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Thailand: Selection of Respondents for Individual Review,'' dated July 17, 2007. On this same date, we issued the antidumping duty questionnaire to Pakfood, the Rubicon Group, Thai I-Mei, and Thai Union.

On August 16, 2007, I.T. Foods provided information to the Department indicating that it did, in fact, have reportable transactions during the POR. Therefore, we did not rescind the administrative review with respect to this company and are preliminarily assigning to it a weighted-average margin calculated for the companies selected for individual review because, based on its response: (1) The discrepancy between the Q&V questionnaire response and the CBP data appeared to be an inadvertent oversight; (2) the quantity of the exports in question was so small that it would not have had an impact on our selection of respondents; and (3) the company has been responsive to our requests for information. For further discussion, see the ''Application of Weighted-Average Margin to I.T. Foods'' section of this notice, below.

We received responses to sections A, B, C, and D of the questionnaire from Pakfood, the Rubicon Group, Thai Union, and Thai I-Mei in August, September, and October 2007.

On September 5, 2007, we published a notice rescinding the administrative review with respect to 69 companies for the following reasons: (1) The request for an administrative review for the company was withdrawn in a timely manner; (2) the company had no shipments of subject merchandise to the United States during the POR; (3) the Q&V questionnaire sent to the company was returned to the Department because of an ''undeliverable'' address; or (4) the company name was a duplicate name. *See Certain Frozen Warmwater Shrimp from Thailand; Partial Rescission of Antidumping Duty Administrative Review,* 72 FR 50931 (Sept. 5, 2007) (*Partial Rescission Notice*). *See also,* the Memorandum to the File from Brianne Riker entitled, ''Intent to Rescind in Part the Antidumping Duty Administrative Review on Frozen Warmwater Shrimp from Thailand,'' dated August 8, 2007.

On September 28, 2007, the petitioner requested that the Department initiate a sales-below-cost investigation for Pakfood and Thai Union. We initiated sales-below-cost investigations for Pakfood and Thai Union on October 5, 2007. *See* the October 5, 2007, Memoranda to James Maeder from The Team entitled, ''The Petitioner's Allegation of Sales Below the Cost of Production for Pakfood Company Limited'' (Pakfood Cost Allegation) and ''The Petitioner's Allegation of Sales Below the Cost of Production for Thai Union Frozen Products PCL and Thai Union Seafood Company, Ltd.'' (Thai Union Cost Allegation).

On October 26, 2007, the Department postponed the preliminary results in this review until no later than February 28, 2008. *See Certain Frozen Warmwater Shrimp From Brazil, Ecuador, India, Thailand, and the Socialist Republic of Vietnam: Notice of Extension of Time Limits for the Preliminary Results of the Second Administrative Reviews,* 72 FR 60800 (Oct. 26, 2007).

During the period October 2007 through February 2008, we issued to Pakfood, the Rubicon Group, Thai I-Mei, and Thai Union supplemental questionnaires regarding sections A, B, C, and D of the original questionnaire. We received responses to these questionnaires during the period November 2007 through February 2008.

We conducted sales and cost verifications at Thai Union and its U.S. affiliate in January and February 2008.

On February 20, 2008, Thai Union submitted a revised sales database which incorporated certain minor

[2] The petitioner is the Ad Hoc Shrimp Trade Action Committee.

corrections to its data discovered at verification.

Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[3] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size. The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

Successor-in-Interest

In making a successor-in-interest determination, the Department normally examines several factors including, but not limited to, changes in: (1) Management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan,* 67 FR 58 (Jan. 2, 2002), and *Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review,* 57 FR 20460 (May 13, 1992). While no one of these factors is dispositive, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor. *See Industrial Phosphoric Acid from Israel; Final Results of Antidumping Duty Changed Circumstances Review,* 59 FR 6944 (Feb. 14, 1994); and *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil,* 71 FR 2183 (Jan. 13, 2006).

As noted above, on April 23, 2007, the Rubicon Group informed the Department that its affiliated producer Y2K Frozen Foods is now doing business under the name Intersia Foods. As a result, on May 7, 2007, we requested that the Rubicon Group address the four factors noted above (*i.e.*, management, production facilities for the subject merchandise, supplier relationships, and customer base) with respect to this change in corporate structure in order to determine whether Intersia Foods Co., Ltd. is the successor-in-interest to Y2K Frozen Foods.

On May 21, 2007, the Rubicon Group responded to the Department's request. In this submission, the Rubicon Group provided evidence to demonstrate that Intersia Foods is the successor-in-interest to Y2K Frozen Foods. Specifically, the Rubicon Group stated that there were no changes to Y2K Frozen Foods' management, production facilities for the subject merchandise, supplier relationships, or customer base as a result of the change in corporate structure. According to the Rubicon Group, Y2K Frozen Foods officially changed its name to Intersia Foods on June 24, 2004, in order to more clearly identify the company as a foods business. Based on our analysis of the Rubicon Group's May 21, 2007, submission, we find that Intersia Foods' organizational structure, management, production facilities, supplier relationships, and customers have remained essentially unchanged. Further, we find that Intersia Foods operates as the same business entity as Y2K Frozen Foods with respect to the production and sale of certain frozen warmwater shrimp. Thus, we find that Intersia Foods is the successor-in-interest to Y2K Frozen Foods, and, as a consequence, its exports of certain frozen warmwater shrimp are subject to this proceeding.

Partial Rescission of Review

In February 2007, the Department received timely requests, in accordance with 19 CFR 351.213(b)(1), from the petitioner and the LSA to conduct a review of Lucky Union Foods Co., Ltd. (Lucky Union), Songkla Canning PCL (Songkla), and Thai Union Manufacturing Co., Ltd. (Thai Union Manufacturing), which are affiliated with Thai Union, a respondent in this review. The Department initiated a review of these three companies and requested that they supply data on the quantity and value of their exports of shrimp during the POR. On April 23, 2007, Thai Union submitted a response

[3] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

to the Department's Q&V questionnaire, in which it indicated that only two of its companies, Thai Union Frozen and Thai Union Seafood, exported subject merchandise to the United States during the POR, while Lucky Union, Songkla, and Thai Union Manufacturing did not produce or export frozen shrimp the United States during the POR. We confirmed this information at Thai Union's sales verification. *See* the February 13, 2008, memorandum to the file from Irina Itkin and Brianne Riker entitled, ''Verification of the Sales Response of Thai Union Frozen Products Public Co., Ltd./Thai Union Seafood Co., Ltd. in the Antidumping Administrative Review of Certain Frozen Warmwater Shrimp from Thailand'' (''Thai Union Verification Report'') at pages 3 and 10. Therefore, because Lucky Union, Songkla, and Thai Union Manufacturing had no shipments of subject merchandise to the United States during the POR, 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 them. *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) *(04–06 Thai Shrimp Final Results); 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).

Application of Weighted-Average Margin to I.T. Foods

In its April 24, 2007, response to the Q&V questionnaire, I.T. Foods claimed that it had no shipments or entries of subject merchandise into the United States during the POR. However, when we attempted to confirm this claim with data obtained from CBP, we found that there were entries of merchandise into the United States produced and/or exported by I.T. Foods that appeared to be within the scope of the antidumping duty order. *See* the Memorandum to the File from Brianne Riker entitled, ''2006–2007 Administrative Review of Certain Frozen Warmwater Shrimp from Thailand: Entry Documents from U.S. Customs and Border Protection,'' dated June 12, 2007. Therefore, on July 16, 2007, we requested information from I.T. Foods to explain this discrepancy.

On August 16, 2007, I.T. Foods provided information to the Department indicating that it did, in fact, have reportable transactions of subject merchandise during the POR of ''tiny shrimp.'' *See* the August 16, 2007, letter to the Department from I.T. Foods. Therefore, we did not rescind the administrative review with respect to this company and are preliminarily assigning to it the weighted-average margin calculated for the companies selected for individual review because, based on its response: (1) The discrepancy between the Q&V questionnaire response and the CBP data appeared to be an inadvertent oversight; (2) the quantity of the exports in question was so small that it would not have had an impact our selection of respondents; and (3) the company has been responsive to our requests for information. Upon issuance of the final results of this administrative review, we will instruct CBP to assess antidumping duties on I.T. Foods' entries of subject merchandise at the weighted-average rate.

In addition, based on the information provided by I.T. Foods, we also have preliminarily determined certain other merchandise produced/exported by I.T. Foods (*i.e.*, ''shrimp balls'') that entered the United States during the POR is not subject to the scope of the order because the shrimp content of this product is limited to shrimp flavoring. *See* the August 16, 2007, letter to the Department from I.T. Foods. Therefore, upon issuance of the final results of this administrative review, we will instruct CBP to liquidate I.T. Foods' entries of non-subject merchandise (*i.e.*, ''shrimp balls'') without regard to antidumping duty liability.

Period of Review

The POR is February 1, 2006, through January 31, 2007.

Application of Facts Available

Section 776(a) of the Tariff Act of 1930, as amended (the Act), provides that the Department will apply ''facts otherwise available'' if, *inter alia,* necessary information is not available on the record or an interested party: 1) Withholds information that has been requested by the Department; 2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

In this administrative review, 13 companies failed to respond completely to the Department's requests for information. Therefore, we preliminarily determine that it is appropriate to assign these companies dumping margins, either in whole or in part, based on facts available. These companies are discussed below.

A. Companies That Failed To Respond to the Q&V Questionnaire

As discussed in the ''Background'' section, above, in April 2007, the Department requested that all companies subject to the review respond to the Department's Q&V questionnaire for purposes of mandatory respondent selection. The original deadline to file a response was April 23, 2007. Of the 142 companies subject to this review, 60 companies did not respond to the Department's initial request for information. Subsequently in May and June 2007, the Department issued two letters to these companies affording them additional opportunities to submit a response to the Department's Q&V questionnaire. However, 12 of these companies also failed to respond to the Department's additional Q&V questionnaires.[4] On July 19, 2007, the Department placed documentation on the record confirming delivery of the questionnaires to each company. *See* the Memorandum to the File from Brianne Riker entitled, ''Placing Delivery Information on the Record of the 2006–2007 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Thailand,'' dated July 19, 2007. By failing to respond to the Department's Q&V questionnaire, these companies withheld requested information and significantly impeded the proceeding. Thus, pursuant to sections 776(a)(2)(A) and (C) of the Act, because these companies did not respond to the Department's questionnaire, the Department preliminarily finds that the use of total facts available is appropriate.

According to section 776(b) of the Act, if the Department finds that 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 that is 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 (Sep. 13, 2005);

[4] These companies are: Applied DB; Chonburi LC; Haitai Seafood Co., Ltd. (Haitai); High Way International Co., Ltd. (High Way International); Merkur Co., Ltd. (Merkur); Ming Chao Ind Thailand (Ming Chao); Nongmon SMJ Products (Nongmon); SCT Co., Ltd. (SCT); Search and Serve; Shianlin Bangkok Co., Ltd. (located at 159 Surawong Road, Suriyawong, Bangrak, Bangkok 10500 Thailand) (Shainlin Bangkok); Star Frozen Foods Co., Ltd. (Star Frozen Foods); and Wann Fisheries Co., Ltd. (Wann Fisheries).

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 (Aug. 30, 2002). 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. Rep. No. 103–316, Vol. 1, at 870 (1994) (*SAA*), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99. 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*). We preliminarily find that Applied DB, Chonburi LC, Haitai, High Way International, Merkur, Ming Chao, Nongmon, SCT, Search and Serve, Shianlin Bangkok, Star Frozen Foods, and Wann Fisheries did not act to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act, because they failed to respond to the Department's requests for information and provide timely information. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to these companies. *See Nippon,* 337 F.3d at 1382–83.

Section 776(b) of the Act provides that the Department may use as AFA information derived from: (1) The petition; (2) the final determination in the investigation; (3) any previous review; or (4) any other information placed on the record.

The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule to induce respondents to provide the Department with complete and accurate information in a timely manner.'' *See, e.g., 04–06 Thai Shrimp Final Results* and *Certain Steel Concrete Reinforcing Bars from Turkey; Final Results and Rescission of Antidumping Duty Administrative Review in Part,* 71 FR 65082, 65084 (Nov. 7, 2006).

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, we have preliminarily assigned a rate of 57.64 percent, which is the highest rate alleged in the petition, as adjusted at the initiation of the less-than-fair-value (LTFV) investigation, to the non-responsive companies (*i.e.*, Applied DB, Chonburi LC, Haitai, High Way International, Merkur, Ming Chao, Nongmon, SCT, Search and Serve, Shianlin Bangkok, Star Frozen Foods, and Wann Fisheries). *See Notice of Initiation of Antidumping Duty Investigations: Certain Frozen and Canned Warmwater Shrimp From Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam,* 69 FR 3876, 3881 (Jan. 27, 2004). The Department believes that this rate is sufficiently high as to effectuate the purpose of the facts available rule (*i.e.*, we find that this rate is high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act).

Information from prior segments of the proceeding constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Department's regulations provide that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* 19 CFR 351.308(d); *see also SAA* at 870. To the extent practicable, the Department will examine the reliability and relevance of the information to be used.

To corroborate the petition margin, we compared it to the transaction-specific rates calculated for each respondent in this review. We find that it is reliable and relevant because the petition rate fell within the range of individual transaction margins calculated for the mandatory respondents. *See e.g., 04–06 Thai Shrimp Final Results,* 72 FR at 52068 and *Notice of Preliminary Results of Antidumping Duty Administrative Review; Partial Rescission and Postponement of Final Results: Certain Softwood Lumber Products from Canada,* 71 FR 33964, 33968 (June 12, 2006). Therefore, we have determined that the 57.64 percent margin is appropriate as AFA and are assigning it to the uncooperative companies listed above.

Further, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin. *See, e.g., Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review,* 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest calculated margin as AFA because the margin was based on a company's uncharacteristic business expense resulting in an unusually high margin). Therefore, we examined whether any information on the record would discredit the selected rate as reasonable facts available. We were unable to find any information that would discredit the selected AFA rate.

Because we did not find evidence indicating that the selected margin is not appropriate and because this margin falls within the range of transaction-specific margins for the mandatory respondents, we have preliminarily determined that the 57.64 percent margin, as alleged in the petition and adjusted at the initiation of the LTFV investigation, is corroborated. We are, therefore, assigning this rate to the non-responsive companies (*i.e.*, Applied DB, Chonburi LC, Haitai, High Way International, Merkur, Ming Chao, Nongmon, SCT, Search and Serve, Shianlin Bangkok, Star Frozen Foods, and Wann Fisheries). For company-specific information used to corroborate this rate, see the Memorandum to the File from Brianne Riker entitled, ''Corroboration of Adverse Facts Available Rate for the Preliminary Results in the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Thailand,'' dated February 28, 2008.

B. Thai Union

During verification, we found that Thai Union had failed to report certain U.S. sales transactions during the POR, which should have been included in the company's U.S. sales database in accordance with the Department's definition of the universe of reportable transactions. We note that certain of these transactions had not been reported because Thai Union did not follow the Department's reporting instructions. Specifically, these transactions included: (1) Certain export price (EP) transactions which had been shipped prior to the POR, but which entered the United States during the POR; (2) certain direct constructed export price (CEP) transactions which were shipped during the POR, but invoiced after the POR; and (3) a small quantity of overlooked U.S. transactions which had not been included in error. We have preliminarily determined that the margin for these sales should be based on facts available in accordance with section 776(a)(1) of the Act because they were not reported to the Department in response to the Department's request for information.

In this case, because Thai Union did not provide the Department with the complete information regarding its universe of POR subject sales in a timely manner, we find that it is appropriate to resort to facts otherwise available to account for the unreported information. *See Notice of Final Results of Antidumping Duty Administrative Review, Rescission of Administrative Review in Part, and Final Determination to Not Revoke Order in Part: Canned Pineapple Fruit from Thailand,* 68 FR 65247 (Nov. 19, 2003), and accompanying Issues and Decision memorandum at Comment 20b. Thai Union's failure to provide this necessary information meets the requirements set forth in Nippon. As stated by the Court of Appeals for the Federal Circuit during its discussion of section 776(a) of the Act in *Nippon,* ''{t} he focus of subsection (a) is respondent's failure to provide information. The reason for the failure is of no moment. The mere failure of a respondent to furnish requested information—for any reason—requires Commerce to resort to other sources of information to complete the factual record on which it makes its determination.''

In regard to the use of an adverse inference, section 776(b) of the Act states that the Department may use an adverse inference if ''an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information* * *'' Because: (1) Thai Union had the necessary information within its control and it did not report this information; and (2) it failed to put forth its maximum effort as required by the Department's questionnaire, we find that Thai Union's failure to respond in this case clearly meets these standards.

As AFA, we have preliminarily used the highest non-aberrant margin calculated for any U.S. transaction for Thai Union, in accordance with our practice. *See, e.g., Static Random Access Memory Semiconductors From Taiwan; Final Results of Antidumping Duty New Shipper Review,* 65 FR 12214 (Mar. 8, 2000), and accompanying Issues and Decision Memorandum at Comment 1; *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory Semiconductors From Taiwan,* 63 FR 8909, 8912 (Feb. 23, 1998); *Final Determination of Sales at Less Than Fair Value; Stainless Steel Sheet and Strip in Coils from Germany,* 64 FR 30710, 30732 (June 8, 1999); and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa,* 62 FR 61731, 61747 (Nov. 19, 1997). In selecting a facts available margin, we sought a margin that is sufficiently adverse so as to effectuate the statutory purposes of the AFA rule, which is to induce respondents to provide the Department with complete and accurate information in a timely manner. We also sought a margin that is rationally related to the transactions to which the AFA is being applied and indicative of Thai Union's customary selling practices. To that end, we selected the highest margin on an individual sale in a commercial quantity that fell within the mainstream of Thai Union's transactions (*i.e.*, transactions that reflect sales of products that are representative of the broader range of models used to determine normal value).

Duty Absorption

On April 5, 2007, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. This review was initiated two years after the publication of the order.

In determining whether the antidumping duties have been absorbed by the respondents during the POR, we presume the duties will be absorbed for those sales that have been made at less than normal value. This presumption can be rebutted with evidence (*e.g.*, an agreement between the affiliated importer and unaffiliated purchaser) that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise. *See, e.g., Certain Stainless Steel Butt-Weld Pipe Fittings from Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind,* 70 FR 39735, 39737 (July 11, 2005). On September 18, 2007, we issued letters to Pakfood, the Rubicon Group, Thai I-Mei, and Thai Union requesting proof that the companies' unaffiliated purchasers would ultimately pay the antidumping duties to be assessed on entries during the POR. Thai Union did not provide any such evidence. Because Thai Union did not rebut the duty-absorption presumption with evidence that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise, we preliminarily find that antidumping duties have been absorbed by Thai Union on all U.S. sales made through its affiliated importers of record. For the percentage of such sales, see the February, 28, 2008, Memorandum to the File from Brianne Riker, entitled ''Calculations Performed for Thai Union Frozen Products Co., Ltd./Thai Union Seafood Co., Ltd. for the Preliminary Results of the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Thailand'' at Attachment 2.

The Rubicon Group and Thai I-Mei responded to the Department's request for information on October 2, 2007. The Rubicon Group stated in its submission that sample documentation submitted as part of its section A questionnaire response shows that it included the cost of antidumping duty deposits in its prices to unaffiliated customers. However, because the Rubicon Group was unable to show that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise, we find that the Rubicon Group did not rebut the duty-absorption presumption. Thai I-Mei also was unable to rebut the duty-absorption presumption. Therefore, because neither the Rubicon Group nor Thai I-Mei was able to rebut the duty-absorption presumption with evidence that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise, we preliminarily find that antidumping duties have also been absorbed by the Rubicon Group and Thai I-Mei on all U.S. sales made through their respective importers of record. For the percentage of such sales by the Rubicon Group and Thai I-Mei, see the February, 28, 2008, Memoranda to the File from Kate Johnson and Rebecca Trainor entitled ''Second Administrative Review of Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results Margin Calculation for the Rubicon Group'' at Attachment 2 and ''2006–2007 Administrative Review of Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results Margin Calculation for Thai I-Mei Frozen Foods Co., Ltd'' at Attachment 1.

With respect to Pakfood, it did not sell subject merchandise in the United States through an affiliated importer. Therefore, it is not appropriate to make a duty-absorption determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Act. *See Agro Dutch Industries Ltd.* v. *United States,* 508 F.3d 1024, 1033 (Fed. Cir. 2007).

Comparisons to Normal Value

To determine whether sales of certain frozen warmwater shrimp from Thailand to the United States were

made at less than NV, we compared the EP or CEP to the NV, as described in the ''Constructed Export Price/Export Price'' and ''Normal Value'' sections of this notice, below.

Pursuant to section 777A(d)(2) of the Act, for Pakfood, the Rubicon Group, and Thai I-Mei, we compared the EPs or CEPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the ''Cost of Production Analysis'' section, below.

Regarding Thai I-Mei, we have determined that this company did not have a viable home or third country market during the POR. Therefore, as the basis for NV, we used constructed value (CV) when making comparisons to CEP for Thai I-Mei in accordance with section 773(a)(4) of the Act.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by Pakfood, the Rubicon Group, and Thai Union covered by the description in the ''Scope of the Order'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Pursuant to 19 CFR 351.414(e)(2), we compared U.S. sales of shrimp to sales of shrimp made in the comparison market for Pakfood, the Rubicon Group, and Thai Union within the contemporaneous window period, which extends from three months prior to the month of the U.S. sale until two months after the sale. 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 of shrimp to sales of shrimp of the most similar foreign like product made in the ordinary course of trade. For Pakfood, the Rubicon Group, and Thai Union, where there were no sales of identical or similar merchandise, and for all of Thai I-Mei's sales, we made product comparisons using CV.

With respect to sales comparisons involving broken shrimp, we compared Pakfood's and the Rubicon Group's sales of broken shrimp in the United States to its sales of comparable quality shrimp in the home market. Where there were no sales of identical broken shrimp in the comparison market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales of broken shrimp to sales of the most similar broken shrimp made in the ordinary course of trade. Where there were no sales of identical or similar broken shrimp, we made product comparisons using CV.

In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Pakfood, the Rubicon Group, and Thai Union in the following order: cooked form, head status, count size, organic certification, shell status, vein status, tail status, other shrimp preparation, frozen form, flavoring, container weight, presentation, species, and preservative.

Constructed Export Price/Export Price

For all U.S. sales made by Pakfood, as well as certain U.S. sales made by the Rubicon Group and Thai Union, we used EP methodology, 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 CEP methodology was not otherwise warranted based on the facts of record.

For all U.S. sales made by Thai I-Mei, as well as certain U.S. sales made by the Rubicon Group and Thai Union, we calculated CEP in accordance with section 772(b) of the Act because the subject merchandise was sold for the account of these companies by their subsidiaries in the United States to unaffiliated purchasers.

A. Pakfood

We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made adjustments for billing adjustments and discounts. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight expenses, foreign warehousing expenses, survey fees, foreign brokerage and handling expenses, ocean freight expenses (offset by freight adjustments, where appropriate), marine insurance expenses, U.S. brokerage and handling expenses, and U.S. customs duties (including harbor maintenance fees and merchandise processing fees).

B. The Rubicon Group

In accordance with section 772(a) of the Act, we calculated EP for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States. We based EP on the packed price to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for discounts. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight expenses, foreign warehousing expenses, foreign inland insurance expenses, foreign brokerage and handling expenses, ocean freight expenses, marine insurance expenses, U.S. brokerage and handling expenses, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), and U.S. inland freight expenses (*i.e.*, freight from port to warehouse).

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. We used the earlier of shipment date from Thailand to the customer or the U.S. affiliate's invoice date as the date of sale for CEP sales, in accordance with our practice. *See e.g., Certain Frozen Warmwater Shrimp from Thailand: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review,* 72 FR 52065 (Sep. 12, 2007), and accompanying Issues and Decision Memorandum at Comment 11 (*04–06 Thai Shrimp Final); Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand,* 69 FR 76918 (Dec. 23, 2004), and accompanying Issues and Decision Memorandum at Comment 10 (*Thai Shrimp LTFV Investigation Final*); and *Notice of Final Determination of Sales at Less Than Fair Value: Structural Steel Beams from Germany,* 67 FR 35497 (May 20, 2002), and accompanying Issues and Decision Memorandum at Comment 2 (*SS Beams from Germany*).

We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for discounts and rebates. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight expenses, foreign warehousing expenses, foreign inland insurance expenses, foreign brokerage and handling expenses, ocean freight expenses, marine insurance expenses, U.S. brokerage and handling expenses, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance expenses, U.S. inland freight expenses (*i.e.*, freight from port to warehouse and

freight from warehouse to the customer), and U.S. warehousing expenses.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, bank charges, advertising, and imputed credit expenses), and indirect selling expenses (including inventory carrying costs and other indirect selling expenses).

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by the Rubicon Group and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

C. Thai I-Mei

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. We used the earlier of shipment date from Thailand to the customer or the U.S. affiliate's invoice date as the date of sale for CEP sales, in accordance with our practice. *See e.g., 04–06 Thai Shrimp Final* at Comment 11; *Thai Shrimp LTFV Investigation Final* at Comment 10; and *SS Beams from Germany* at Comment 2.

We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for billing adjustments. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling expenses, ocean freight expenses, marine insurance expenses, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland freight expenses (*i.e.*, freight from port to warehouse and freight from warehouse to the customer), and U.S. warehousing expenses.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses), and indirect selling expenses (including inventory carrying costs and other indirect selling expenses).

Pursuant to section 772(d)(3) of the Act, we calculated an amount for profit to arrive at CEP. In accordance with section 772(f)(2)(C)(iii) of the Act, we based the CEP profit rate on Thai I-Mei's financial statements because Thai I-Mei made sales during the POR solely to the United States. For further discussion, see the Memorandum to the File from Rebecca Trainor, entitled, ''Calculations Performed for Thai I-Mei Frozen Foods Co., Ltd. for the Preliminary Results in the 2006–2007 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from Thailand,'' dated February 28, 2008.

D. Thai Union

In accordance with section 772(a) of the Act, we calculated EP for those sales where the merchandise was sold to the first unaffiliated purchaser in the United States prior to importation by the exporter or producer outside the United States. We based EP on the packed price to unaffiliated purchasers in the United States. We made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight, foreign brokerage and handling expenses, ocean freight expenses, marine insurance expenses, U.S. brokerage and handling expenses, and U.S. customs duties (including harbor maintenance fees and merchandise processing fees).

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. We used the earlier of shipment date from Thailand to the customer or the U.S. affiliate's invoice date as the date of sale for CEP sales, in accordance with our practice. *See e.g., 04–06 Thai Shrimp Final* at Comment 11; *Thai Shrimp LTFV Investigation Final* at Comment 10; and *SS Beams from Germany* at Comment 2.

We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for billing adjustments, discounts, and rebates. We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight expenses, foreign brokerage and handling expenses, demurrage expenses, ocean freight expenses, marine insurance expenses, U.S. brokerage and handling, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland freight expenses (*i.e.*, freight from port to warehouse, freight from warehouse to warehouse, and freight from warehouse to the customer), and U.S. warehousing expenses (offset by warehouse release revenue). In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, imputed credit expenses, bank charges, and advertising expenses), and indirect selling expenses (including inventory carrying costs and other indirect selling expenses).

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Thai Union and its U.S. affiliates on their sales of the subject merchandise in the United States and the profit associated with those sales.

Normal Value

A. Home Market Viability and Selection of Comparison Markets

In order 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 the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that Pakfood and Thai Union had viable home markets during the POR. Consequently, we based NV on home market sales for these respondents.

However, the petitioner has argued throughout this review that certain of Thai Union's home market sales should not be considered for purposes of determining NV, and that excluding such sales from the viability test renders Thai Union's home market not viable. Specifically, the petitioner argued that the following sales should not be included in home market sales: (1) Sales to an affiliated producer which are consumed in the production of non-subject merchandise (*i.e.*, no downstream sale exists); and (2) sales of ''hanging'' shrimp. In response, Thai Union has argued that its reported home market sales are legitimate because: (1) it is the Department's practice to

include in the viability test sales of the foreign like product sold to an affiliated producer in the home market consumed in the production of non-subject merchandise; and (2) ''hanging shrimp'' is second-quality shrimp, not a by-product. At verification, we thoroughly examined whether the shrimp at issue are properly considered foreign like product and were sold and/or consumed as claimed by the respondent. For further discussion, see the ''Thai Union Verification Report'' and the February 26, 2008, memorandum to the file from Heidi K. Schriefer entitled, ''Verification of the Cost Response of Thai Union Frozen Product PCL and Thai Union Seafood Company Ltd. in the 2nd Administrative Review of the Antidumping Duty Order on Certain Frozen Warmwater Shrimp from Thailand.''

Regarding the Rubicon Group, we determined that this respondent's aggregate volume of home market sales of the foreign like product was insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Therefore, we used sales to the Rubicon Group's largest third-country market (*i.e.*, Canada) as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404. Finally, we determined that Thai I-Mei's aggregate volumes of home and third country market sales of the foreign like product were insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Therefore, we used CV as the basis for calculating NV for Thai I-Mei, in accordance with section 773(a)(4) of the Act.

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

During the POR, Pakfood and Thai Union sold the foreign like product to affiliated customers. To test whether these sales were made at arm's-length prices, we compared, on a product-specific basis, the starting prices of sales to affiliated and unaffiliated customers, net of all discounts and rebates, 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 the affiliated party was, on average, within a range of 98 to 102 percent of the price of the same or comparable merchandise sold to unaffiliated parties, we determined that 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, 69187 (Nov. 15, 2002) (establishing that the overall ratio calculated for an affiliate must be between 98 percent 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 comparison 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. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id. See also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (Nov. 19, 1997) (*Plate from South Africa*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),[5] we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States*, 243 F. 3d 1301, 1314 (Fed. Cir. 2001). When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sales to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Plate from South Africa*, 62 FR at 61732–61733.

In this administrative review, we obtained information from each respondent regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

1. Pakfood

Pakfood reported that it made EP sales in the U.S. market through a single channel of distribution (*i.e.*, direct sales to distributors). We examined the selling activities performed for this channel and found that Pakfood performed the following selling functions: Providing sales promotion/advertising, attending trade shows, maintaining customer contact, price negotiation, invoice issuance, payment receipt, delivery services, and packing. Accordingly, based on the core selling functions, we find that Pakfood performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for U.S. sales. Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Pakfood made sales to processors, distributors, retailers, and end-users. Pakfood stated that its home market sales were made through a single channel of distribution, regardless of customer category. We examined the selling activities performed for this channel, and found that Pakfood performed the following selling functions: Sales forecasting/market research, providing sales promotion/advertising, attending trade shows, maintaining customer contact, price negotiation, order processing, invoice issuance, delivery services, providing direct sales personnel, payment receipt, and packing. Accordingly, based on the core selling functions, we find that Pakfood performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing at the same relative level of intensity for all customers in the

[5] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) expenses, and profit for CV, where possible.

home market. Because all sales in the home market are made through a single distribution channel, we preliminarily determine that there is one LOT in the home market.

Finally, we compared the EP LOT to the home market LOT and found that the core selling functions performed for U.S. and home market customers are virtually identical. Therefore, we determined that sales to the U.S. and home markets during the POR were made at the same LOT, and as a result, no LOT adjustment was warranted.

2. The Rubicon Group

The Rubicon Group reported that it made both EP and CEP sales in the U.S. market to distributors/wholesalers, retailers, and food service industry customers. For EP sales, the Rubicon Group reported sales through one channel of distribution (*i.e.*, direct from the Thai exporters to unaffiliated U.S. customers). For CEP sales, the Rubicon Group reported that its U.S. affiliate made sales through two channels of distribution: (1) From a warehouse; and (2) direct shipments to customers (''drop shipments'').

We examined the selling activities performed for each channel. For direct EP sales, the Rubicon Group reported the following selling functions: sales forecasting/market research, sales promotion/trade shows/advertising, inventory maintenance, order input/processing, freight and delivery arrangements, visits/calls and correspondence to customers, development of new packaging (with customer), packing and after-sales services. Accordingly, based on the core selling functions, we find that the Rubicon Group performed sales and marketing, freight and delivery, and inventory maintenance and warehousing activities. For CEP sales of both warehoused and drop shipment sales, the Rubicon Group reported the following selling functions: inventory maintenance, order input/processing, freight and delivery arrangements, and packing. As the selling functions performed for both warehoused and drop shipment sales were identical, we find that there was one LOT for CEP sales. Furthermore, although the Rubicon Group reported that it performed fewer selling functions for CEP sales than for EP sales (primarily sales and marketing functions), we do not find that the differences are significant enough to warrant finding different LOTs in the U.S. market. This determination is consistent with that made in the LTFV investigation for the Rubicon Group. *See Notice of Preliminary Determination of Sales at Less Than Fair Value; Postponement of Final Determination, and Negative Critical Circumstances Determination: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 47100 (August 4, 2004) and *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From Thailand*, 69 FR 76918 (December 23, 2004) (unchanged in final). Moreover, although the Rubicon Group has claimed that its selling practices in the United States have changed since the LTFV investigation, it has not provided compelling evidence that the selling functions by any of the Thai respondents has changed significantly since then. *See* the November 28, 2007, ABC Supplemental Questionnaire Response at pages 19–20.

With respect to the Canadian market, the Rubicon Group reported sales to distributors/wholesalers, retailers, and end users. The Rubicon Group stated that its Canadian sales were made through two channels of distribution: (1) Direct to Canadian customers; and (2) through its U.S. affiliate from a Canadian warehouse. We examined the reported selling activities and found that the Rubicon Group performed the following selling functions for direct sales: Sales forecasting; market research; sales promotion; trade shows; inventory maintenance; order input/processing; freight and delivery arrangements; visits, calls and correspondence to customers; development of new packaging (with customer); packing; and after-sales services. For warehoused sales, we found that the Rubicon Group performed the following selling functions: sales forecasting; market research; advertising; sales promotion; trade shows; inventory maintenance; order input/processing; freight and delivery arrangements; visits, calls and correspondence to customers; development of new packaging (with customer); and after-sales services. Accordingly, based on the core selling functions, we find that the Rubicon Group performed sales and marketing, freight and delivery, and inventory maintenance and warehousing at the same relative level of intensity for all customers in the comparison market. We note that, the company performed some sales and marketing activities for warehoused sales but not for direct sales to Canadian customers. However, we do not find that this difference, combined with some claimed differences in the levels of the common selling functions, amounts to a significant difference in the selling functions performed for the two channels of distribution. Therefore, based on our overall analysis, we found that all of the Rubicon Group's sales in the Canadian market constituted one LOT.

After analyzing the selling functions performed for each sales channel, we find that the distinctions in selling functions are not material. We acknowledge that the Rubicon Group provides sales forecasting/market research for sales to Canada and direct U.S. sales but not for sales to its U.S. affiliate. However, we do not find that this difference, combined with the claimed difference in the levels of the common selling functions, amounts to a significant difference in the selling functions performed for the two channels of distribution. Therefore, we do not find that the U.S. LOT for CEP sales is less advanced than the LOT for Canadian sales.

Based on the above analysis, we find that the Rubicon Group performed essentially the same selling functions when selling to both Canada and the United States (for both the EP and CEP sales). Therefore, we determine that these sales are at the same LOT and no LOT adjustment is warranted. Because we find that no difference in the LOTs exists between markets, we have not granted a CEP offset to the Rubicon Group.

3. Thai I-Mei

With respect to Thai I-Mei, this exporter had no viable home or third country market during the POR. Therefore, we based NV on CV. When NV is based on CV, the NV LOT is that of the sales from which we derive selling, general, and administrative (SG&A) expenses and profit. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Fresh Atlantic Salmon From Chile*, 63 FR 2664 (Jan. 16, 1998), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon From Chile*, 63 FR 31411 (June 9, 1998). In accordance with 19 CFR 351.412(d), the Department will make its LOT determination under paragraph (d)(2) of this section on the basis of sales of the foreign like product by the producer or exporter. Because we based the selling expenses and profit for Thai I-Mei on the weighted-average home market selling expenses incurred and profits earned by the other respondents (*i.e.*, Pakfood and Thai Union) in the administrative review, we are able to determine the LOT of the sales from which we derived selling expenses and profit for CV.

Thai I-Mei reported that it made sales through six channels of distribution in the United States; however, it stated that the selling activities it performed did not vary by channel of distribution. Thai I-Mei reported performing the following selling functions for sales to its U.S. affiliate: order input/processing, warranty service, freight and delivery services, calls and correspondence with customers, price negotiation, invoice issuance, payment receipt/processing, providing samples, and packing. Accordingly, based on the core selling functions, we find that Thai I-Mei performed sales and marketing, freight and delivery services, and warranty services for sales to its U.S. affiliate. Because Thai I-Mei's selling activities did not vary by distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

As noted above, we find that Thai Union and Pakfood performed the following core selling functions: sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty services. Further, although Thai Union and Pakfood performed certain sales and marketing functions (*e.g.*, sales forecasting/market research, strategic/economic planning, sales promotion/advertising/trade shows) and inventory maintenance and warehousing functions that Thai I-Mei did not perform, we did not find these differences to be material selling function distinctions significant enough to warrant a separate LOT. Thus, we determine that the NV LOT for Thai I-Mei is the same as the LOT of Thai I-Mei's CEP sales and, as a result, no LOT adjustment is warranted.

Regarding the CEP offset provision, as described above, it is appropriate only if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability. Because we find that no difference in LOTs exists, we do not find that a CEP offset is warranted for Thai I-Mei.

4. Thai Union

In the U.S. market, Thai Union reported both EP and CEP sales to wholesalers/distributors, end-users, processors, and retailers/restaurants. Thai Union reported sales through two channels of distribution: 1) Direct EP sales from Thai Union to unaffiliated U.S. customers; and 2) CEP sales made to its U.S. affiliates. We examined the selling activities performed for direct EP sales from Thai Union to unaffiliated U.S. customers and found that Thai Union performed the following selling functions: sales forecasting/market research, sales/marketing support, strategic/economic planning, order input/processing, providing direct sales personnel, providing warranty services/guarantees, inventory maintenance, freight services, and packing. Accordingly, based on the core selling functions, we find that Thai Union performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical services for its EP sales.

Further, we examined the selling activities performed for CEP sales made to Thai Union's U.S. affiliates and found that Thai Union performed the following selling functions: order input/processing, freight services, inventory maintenance, and packing. Accordingly, based on the core selling functions, we find that Thai Union performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for its CEP sales.

We preliminarily find that Thai Union performed freight and delivery services and inventory maintenance and warehousing at the same level of intensity for all customers in the United States regardless of distribution channel. In addition, although technical and warranty services were provided for EP sales, and not for CEP sales, these services were performed at a low level of intensity and, thus, we do not find this to be a material selling distinction significant enough to warrant a separate LOT. Further, although Thai Union performed additional sales and marketing functions (*i.e.*, sales forecasting/market research, strategic/economic planning, providing direct sales personnel, and sales/marketing support) for its EP sales that it did not perform for its CEP sales, we also did not find these differences to be material selling function distinctions significant enough to warrant a separate LOT in the U.S. market. Therefore, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the home market, Thai Union made sales to wholesalers/distributors, end-users, processors, and retailers/restaurants. Thai Union stated that its home market sales were made through two channels of distribution: (1) Ex-factory sales; and (2) delivered sales. We examined the selling activities performed and found that Thai Union performed the following selling functions at the same level of intensity for both of these channels: sales forecasting/market research/sales promotion, sales/marketing support, strategic/economic planning, order input/processing, providing direct sales personnel, providing warranty services/guarantees, inventory maintenance, and packing. Additionally, for delivered sales, we find that Thai Union provided freight and delivery services. Accordingly, based on the core selling functions, we find that Thai Union performed sales and marketing, inventory maintenance and warehousing, and warranty and technical services at the same level of intensity for all customers in the home market regardless of distribution channel. Although freight and delivery services were performed for delivered sales, and not for ex-factory sales, we do not find this to be a material selling distinction significant enough to warrant a separate LOT. Therefore, we preliminarily determine that there is one LOT in the home market.

We evaluated the core selling function categories in the U.S. and home market LOTs and found that each of the core selling functions (*i.e.*, sales and marketing, inventory maintenance, freight and delivery services, and warranty and technical support) were performed in both the U.S. and home markets. Although there are differences in the type of sales and marketing services provided for each market, we did not find this to be a material selling function distinction significant enough to warrant a separate LOT. 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 determine that no LOT adjustment is warranted or possible for Thai Union. Regarding the CEP offset provision, as described above, it is appropriate only if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability. Because we find that no difference in LOTs exists, we do not find that a CEP offset is warranted for Thai Union.

D. Cost of Production Analysis

We found that the Rubicon Group had made sales below the cost of production (COP) in the LTFV investigation, the most recently completed segment of this proceeding as of the date the questionnaire was issued in this review, and such sales were disregarded. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Negative Preliminary Critical Circumstances Determination: Certain Frozen and Canned Warmwater Shrimp from Thailand,* 69 FR 47100, 47107 (Aug. 4, 2004); unchanged in the *Thai*

Shrimp LTFV Investigation Final. Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that the Rubicon Group made sales in the third-country market at prices below the cost of producing the merchandise in the current review period.

Further, based on our analysis of the petitioner's allegations, we found that there were reasonable grounds to believe or suspect that Pakfood's and Thai Union's sales of frozen warmwater shrimp in the home market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated sales-below-cost investigations to determine whether Pakfood's and Thai Union's sales were made at prices below their respective COPs. *See* the Pakfood Cost Allegation and the Thai Union Cost Allegation.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondents' COPs based on the sum of their costs of materials and conversion for the foreign like product, plus amounts for G&A expenses and interest expenses (*see* ''Test of Comparison Market Sales Prices'' section below for treatment of home market selling expenses).

The Department relied on the COP data submitted by Pakfood, the Rubicon Group, and Thai Union in their most recent supplemental section D questionnaire responses for the COP calculations, except for the following instances where the information was not appropriately quantified or valued:

a. Pakfood

We did not make any adjustments to Pakfood's reported COP data.

b. The Rubicon Group

i. We removed purchases of finished shrimp between collapsed affiliates from the company-specific cost of sales denominator in the calculation of the G&A and financial expense ratios to avoid double counting such costs.

ii. For CFF, we used cost of goods sold as the denominator in the calculation of the G&A expense ratio.

Our revisions to the Rubicon Group's COP data are discussed in the Memorandum to Neal Halper, Director, Office of Accounting from Frederick W. Mines, entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results,'' dated February 28, 2008.

c. Thai Union

i. We excluded certain book-to-physical inventory adjustments from Thai Union Seafood's fixed overhead costs that were double-counted in the reported costs.

ii. We adjusted Thai Union Seafood's reported cost data to account for additional finished production quantities that were reported as a minor correction at the cost verification. This adjustment resulted in the addition of two new control numbers to Thai Union Seafood's cost database.

iii. We revised Thai Union Seafood's G&A expense ratio to exclude export tax coupon income from the numerator and to include scrap offsets in the denominator.

iv. We revised Thai Union Frozen's G&A expense ratio to exclude certain income items (*i.e.*, raw material claims, export tax coupons, and other revenues related to interest earned on accounts receivables and raw material claims) from the numerator and to include scrap offsets in the denominator.

v. We revised Thai Union's consolidated financial expense ratio to include scrap offsets in the denominator.

Our revisions to Thai Union's COP data are discussed in the Memorandum to Neal Halper, Director, Office of Accounting, from Heidi K. Schriefer entitled, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Thai Union Frozen Products PCL and Thai Union Seafood Company, Ltd.,'' dated February 28, 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 (for Pakfood and Thai Union) or comparison market sales (for the Rubicon Group) 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 COP exclusive of selling and packing expenses. The prices, adjusted for any applicable billing adjustments, were exclusive of any applicable movement charges, rebates, discounts, and direct and indirect selling expenses, and packing expenses, revised where appropriate, as discussed below under the ''Price-to-Price Comparisons'' section.

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 POR 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 POR. In such cases, because we compared prices to POR-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 specific products, more than 20 percent of Pakfood's, the Rubicon Group's, and Thai Union'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.

For those U.S. sales of subject merchandise for which there were no useable home market sales in the ordinary course of trade, we compared EPs to CV in accordance with section 773(a)(4) of the Act. *See* ''Calculation of Normal Value Based on Constructed Value'' section below.

E. Calculation of Normal Value Based on Comparison Market Prices

1. Pakfood

We based NV for Pakfood on ex-factory or delivered prices to unaffiliated customers in the home market or prices to affiliated customers in the home market that were determined to be at arm's length. Where appropriate, we made adjustments for billing adjustments and discounts. We made deductions, where appropriate, from the starting price for inland freight and warehousing expenses, under section 773(a)(6)(B)(ii) of the Act.

We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances-of-sale for imputed credit expenses and bank/wire fee charges. We also made adjustments in accordance with 19 CFR 351.410(e) for indirect

selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: (1) The amount of commission paid in the U.S. market; or (2) the amount of indirect selling expenses incurred in the comparison market.

We also deducted home market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

2. The Rubicon Group

For the Rubicon Group, we calculated NV based on delivered prices to unaffiliated customers. Where appropriate, we made adjustments for billing adjustments and rebates. We also made deductions for movement expenses, including inland freight (plant to warehouse and warehouse to port), warehousing, inland insurance, brokerage and handling, ocean freight (offset by freight adjustments, where appropriate), third-country inland insurance, third-country inspection fees, third-country brokerage and handling, and third-country warehousing, under section 773(a)(6)(B)(ii) of the Act.

For third country price-to-EP comparisons, we made circumstance-of-sale adjustments for differences in credit expenses and commissions, pursuant to section 773(a)(6)(C) of the Act.

For third country price-to-CEP comparisons, we made deductions for third-country credit expenses and commissions pursuant to 773(a)(6)(C) of the Act.

We also made adjustments in accordance with 19 CFR 351.410(e) for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: 1) The amount of commission paid in the U.S. market; or 2) the amount of indirect selling expenses incurred in the comparison market. If the commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

We also deducted third-country packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

3. Thai Union

We based NV for Thai Union on ex-factory or delivered prices to unaffiliated customers in the home market or prices to affiliated customers in the home market that were determined to be at arm's length. Where appropriate, we made adjustments for billing adjustments. We made deductions, where appropriate, from the starting price for inland freight expenses, under section 773(a)(6)(B)(ii) of the Act.

For home market price-to-EP comparisons, we made circumstance-of-sale adjustments for differences in credit expenses, pursuant to section 773(a)(6)(C) of the Act.

For home market price-to-CEP comparisons, we made deductions for home market credit expenses, pursuant to 773(a)(6)(C) of the Act.

Regarding credit expenses, Thai Union reported that it had not received payment for certain home market and U.S. sales. Consequently, for these sales, we used a payment date of February 28, 2008 (*i.e.*, the date of the preliminary results), and recalculated imputed credit expenses accordingly.

We also made adjustments in accordance with 19 CFR 351.410(e) for indirect selling expenses incurred on comparison-market or U.S. sales where commissions were granted on sales in one market but not the other. Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: 1) The amount of commission paid in the U.S. market; or 2) the amount of indirect selling expenses incurred in the comparison market.

Furthermore, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411.

We also deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

F. 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 CV. Accordingly, for those frozen warmwater shrimp products for Pakfood, the Rubicon Group, and Thai Union 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 comparable products failed the COP test, we based NV on CV. For Thai I-Mei, in accordance with section 773(a)(4) of the Act, we based NV on CV because there was no viable home or third country market.

Section 773(e) of the Act provides that 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. For Pakfood and Thai Union, we calculated the cost of materials and fabrication based on the methodology described in the ''Cost of Production Analysis'' section, above, and we based SG&A and profit for each respondent on the actual amounts incurred and realized by it 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. For comparisons to Pakfood's and Thai Union's EP, we made circumstances-of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses, to CV, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410.

For Thai I-Mei, in accordance with section 773(e) of the Act, we calculated CV based on the sum of Thai I-Mei's cost of materials and fabrication for the foreign like product, plus amounts for SG&A, profit, and U.S. packing costs. The Department relied on COP data submitted by Thai I-Mei in its most recent supplemental section D questionnaire response for the COP calculation. Because Thai I-Mei does not have a viable comparison market, the Department cannot determine profit under section 773(e)(2)(A) of the Act, which requires sales by the respondent in question in the ordinary course of trade in a comparison market. Likewise, because Thai I-Mei does not have sales of any product in the same general category of products as the subject merchandise, we are unable to apply alternative (i) of section 773(e)(2)(B) of the Act. Therefore, we calculated Thai I-Mei's CV profit and selling expenses based on alternative (ii) of this section, in accordance with section 773(e)(2)(B)(ii) of the Act. As a result, we calculated Thai I-Mei's CV profit and selling expenses as a weighted average of the profit and selling expenses incurred by the other respondents which had viable home markets in this

administrative review. Specifically, we calculated the weighted-average profit and selling expenses incurred on comparison market sales made by Pakfood and Thai Union.

For comparisons to Thai I-Mei's CEP, we deducted from CV direct selling expenses incurred on Pakfood's and Thai Union's comparison market sales, in accordance with section 773(a)(7)(ii)(B) 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.

Preliminary Results of the Review

We preliminarily determine that weighted-average dumping margins exist for the respondents for the period February 1, 2006, through January 31, 2007, as follows:

Manufacturer/exporter	Percent margin
Pakfood Public Company Limited/Asia Pacific (Thailand) Company Limited/Chaophraya Cold Storage/Okeanos Company Limited/ Takzin Samut Company Limited	2.40
Andaman Seafood Co., Ltd./Chanthaburi Frozen Food Co., Ltd/Chanthaburi Seafoods Co., Ltd./Euro-Asian International Seafoods Co., Ltd./Intersia Foods Co., Ltd/Phattana Seafood Co., Ltd./Phattana Frozen Food Co., Ltd./S.C.C. Frozen Seafood Co., Ltd/ Seawealth Frozen Food Co. Ltd./Thailand Fishery Cold Storage Public Co., Ltd/Thai International Seafoods Co., Ltd./Wales & Co. Universe Limited	5.24
Thai I-Mei Frozen Foods Co., Ltd	3.02
Thai Union Frozen Products Public Co., Ltd./Thai Union Seafood Co., Ltd	15.30
Review-Specific Average Rate Applicable to the Following Companies: [6]	
Asian Seafoods Coldstorage Public Company Limited/Asian Seafoods Coldstorage (Suratthani) Co., Ltd./STC Foodpak Limited	6.09
Charoen Pokphand Foods Public Company Limited/CP Merchandising Co., Ltd./Klang Co., Ltd./Seafoods Enterprise Co., Ltd./ Thai Prawn Culture Center Co., Ltd	6.09
Crystal Frozen Foods Co., Ltd	6.09
CY Frozen Co., Ltd	6.09
Fortune Frozen Foods (Thailand) Co., Ltd	6.09
Good Fortune Cold Storage Ltd	6.09
Good Luck Product Co., Ltd.	
Inter-Pacific Marine Products Co, Ltd	6.09
I.T. Foods Industries Co., Ltd	6.09
Kiang Huat Sea Gull Trading Frozen Food Public Company Limited	6.09
Kingfisher Holdings Limited/KF Foods Limited	6.09
Kitchens of the Ocean (Thailand) Co., Ltd.	
Kongphop Frozen Foods Co., Ltd	6.09
Marine Gold Products Ltd	6.09
May Ao Co., Ltd./May Ao Foods Co., Ltd	6.09
Narong Seafood Co., Ltd	6.09
Ongkorn Cold Storage Co., Ltd/Thai-ger Marine Co., Ltd	6.09
S&D Marine Products Co., Ltd	6.09
Seafresh Industry Public Company Limited/Seafresh Fisheries	6.09
Siam Intersea Co., Ltd	6.09
SMP Food Product Co., Ltd	6.09
Surapon Foods Public Co., Ltd./Surat Seafoods Co., Ltd	6.09
Tey Seng Cold Storage Co., Ltd./Chaiwarut Co., Ltd	6.09
Thai Royal Frozen Food Co., Ltd	6.09
The Siam Union Frozen Foods Co., Ltd./Kosamut Frozen Foods Co., Ltd	6.09
The Union Frozen Products Co., Ltd./Bright Sea Co., Ltd	6.09
Transamut Food Co., Ltd	6.09
Xian-Ning Seafood Co., Ltd	6.09
Yeenin Frozen Foods Co., Ltd	6.09
AFA Rate Applicable to the Following Companies:	
Applied DB	57.64
Chonburi LC	57.64
Haitai Seafood Co., Ltd	57.64
High Way International Co., Ltd	57.64
Merkur Co., Ltd.	57.64
Ming Chao Ind Thailand	57.64
Nongmon SMJ Products	57.64
SCT Co., Ltd	57.64
Search and Serve	57.64
Shianlin Bangkok Co., Ltd. (located at 159 Surawong Road, Suriyawong, Bangrak, Bangkok 10500 Thailand)	57.64
Star Frozen Foods Co., Ltd	57.64
Wann Fisheries Co., Ltd	57.64

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

[6] 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 AFA.

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 this 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 Rates

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.

For certain of Pakfood's, the Rubicon Group's, and Thai Union's sales and all of Thai I-Mei's sales, we note that these companies reported the entered value for the U.S. sales in question. We will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer.

For certain of Pakfood's, the Rubicon Group's, and Thai Union's sales, we note that these companies did not report the entered value for the U.S. sales in question. We will calculate importer-specific per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. We note that for certain of Pakfood's and the Rubicon Group's sales of shrimp with sauce, we will include the total quantity of the merchandise with sauce in the denominator of the calculation of the importer-specific rate because CBP will apply the per-unit duty rate to the total quantity of merchandise entered, including the sauce weight. To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate importer-specific *ad valorem* ratios based on the estimated entered value.

Finally, regarding Thai Union's unreported U.S. sales, we will base the assessment rate assigned to the corresponding entries on AFA, determined as noted above. We will instruct CBP to collect these duties on an importer-specific basis, where possible.

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 this review if any importer-specific assessment rate calculated in the final results of this review 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). 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. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this 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 this review, 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 previously reviewed or investigated companies not participating 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 or the original 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 5.95 percent, the all-others rate made effective by the LTFV investigation. *See Shrimp Order.* These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: February 28, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–4418 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

A–533–840

Certain Frozen Warmwater Shrimp from India: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp from India with respect to 201 companies.[1] The respondents which the Department selected for individual review are Devi Sea Foods Limited (Devi) and Falcon Marine Exports Limited (Falcon). The respondents which were not selected for individual review are listed in the ''Preliminary Results of Review'' section of this notice. This is the second administrative review of this order. The period of review (POR) is February 1, 2006, through January 31, 2007.

We preliminarily determine that sales made by Devi and Falcon have been made at 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. For those companies which were not responsive to the Department's requests for information, we have preliminarily assigned to them a margin based on adverse facts available (AFA).

If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: March 6, 2008.

FOR FURTHER INFORMATION CONTACT: Elizabeth Eastwood, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–3874.

SUPPLEMENTARY INFORMATION:

Background

In February 2005, the Department published in the **Federal Register** an antidumping duty order on certain warmwater shrimp from India. *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from India*, 70 FR 5147 (Feb. 1, 2005) (*Shrimp Order*). Subsequently, on February 2, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain frozen warmwater shrimp from India for the period February 1, 2006, through January 31, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 72 FR 5007 (Feb. 2, 2007). In response to timely requests from interested parties pursuant to 19 CFR 351.213(b)(1) and (2) to conduct an administrative review of the sales of certain frozen warmwater shrimp from numerous producers/exporters of subject merchandise, the Department published a notice of initiation of administrative review for 319 companies[2] 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 POR for mandatory respondent selection purposes. These companies are listed in the Department's notice of initiation. *See Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp From Brazil, Ecuador, India and Thailand*, 72 FR 17100 (Apr. 6, 2007) (*Notice of Initiation*).

On April 5, 2007, the petitioner[3] requested that the Department determine whether antidumping duties had been absorbed by the respondents that were to be required to participate in this review.

During the period April through July 2007, we received responses to the Department's Q&V questionnaire from numerous companies. We were unable to locate 16 companies, and we did not receive properly filed responses to this questionnaire from the remaining companies.[4] For further discussion of our treatment of this latter group of companies, see the ''Application of Facts Available'' section of this notice.

On May 25, 2007, Surya Marine Exports (Surya), one of the companies that responded to our Q&V questionnaire, notified us that it had changed its name during the POR and is now doing business under the name Suryamitra Exim Private Limited (Suryamitra). As a result, we solicited information on this change from Suryamitra, which the company supplied in June 2007 and February 2008. After analyzing this information, we preliminarily find that Suryamitra is the successor–in-interest to Surya Marine. For further discussion, see the ''Successor–in-Interest'' section of this notice, below.

On July 5, 2007, the Louisiana Shrimp Association (LSA) withdrew its request for an administrative review for 17 companies, with respect to which the petitioner also withdrew its request on March 16, 2007.

Based upon our consideration of the responses received to the Q&V questionnaire 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 19, 2007, we selected the two largest producers/exporters of certain frozen warmwater shrimp from India during the POR (*i.e.*, Devi and Falcon) as the mandatory respondents in this proceeding. *See* the memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from James Maeder, Director, Office 2, AD/CVD Operations, entitled, ''2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India: Selection of Respondents for Individual Review,'' dated July 19, 2007. On this same date, we issued the antidumping duty questionnaire to Devi and Falcon.

On July 26, 2007, we issued a letter to a non–selected Indian producer/exporter, Gajula Exim (P) Ltd. (Gajula), requesting that it reconcile its claim made in response to the Q&V questionnaire that it did not ship subject merchandise to the United States during the POR with information obtained from CBP. Although Gajula responded to this request for information in August 2007, it failed to properly file its response with the Department, despite repeated requests that it do so. Therefore, we have preliminarily assigned to Gajula a margin based on AFA. For further discussion, see the ''Application of Facts Available'' section of this notice, below.

[1] This figure does not include those companies for which the Department is preliminarily rescinding the administrative review.

[2] We note that we incorrectly stated in the Notice of Initiation that we were initiating administrative reviews for 313 companies for India.

[3] The petitioner is the Ad Hoc Shrimp Trade Action Committee.

[4] As discussed below, for certain of these companies, the petitioner subsequently withdrew its request for review.

We received responses to sections A, B, and C of the questionnaire from Devi and Falcon in August and September 2007. We also received a response to section D of the questionnaire from Devi in September 2007.

On August 24, 2007, the petitioner submitted comments regarding third country market selection with respect to Falcon, and on September 10, 2007, we determined that Japan is the appropriate third country comparison market for this respondent. *See* the memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled, ''2006–2007 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India - Selection of the Appropriate Third Country Market for Falcon Marine Exports Limited,'' dated September 10, 2007 (Selection of Third County Markets Memo). *See also* the ''Home Market Viability and Selection of Comparison Markets'' section of this notice, below, for further discussion.

On September 24, 2007, we provided Devi and Falcon an opportunity to submit proof that their unaffiliated purchasers will ultimately pay any antidumping duties assessed in this administrative review on their merchandise. Neither company responded to this request.

On September 25, 2007, we issued a letter to four Indian exporters/producers participating in this review (*i.e.*, Kadalkanny Frozen Foods (Kadalkanny), Edhayam Frozen Foods Pvt. Ltd. (Edhayam), Diamond Seafood Exports (Diamond), and Theva & Co. (Theva) (collectively, the ''Kadalkanny Group'')) regarding the companies' relationships with each other.

On September 27, 2007, the petitioner requested that the Department initiate a sales–below-cost investigation related to Falcon's sales to Japan.

On October 11, 2007, we received a response to the Department's September 25, 2007, letter from the Kadalkanny Group.

On October 16, 2007, we initiated a sales–below-cost investigation for Falcon. *See* the memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled, ''The Petitioner's Allegation of Sales Below the Cost of Production for Falcon Marine Exports Limited,'' dated October 16, 2007 (Sales–Below-Cost–Memo for Falcon). On this same date, we required Falcon to respond to section D of the questionnaire. It submitted its response in December 2007.

On October 19, 2007, an Indian governmental agency, the Marine Products Export Development Authority (MPEDA), requested that the Department rescind the administrative review with respect to the following Indian companies: 1) those exporters for which the review was requested solely by either the petitioner or the LSA, based on the claim that these requests did not meet the requirements of 19 CFR 351.213(b); and 2) any exporters which are not registered with MPEDA and did not respond to the Department's request for information, based on the claim that these companies are not permitted to export products from India (and, thus, could not have shipped subject merchandise to the United States during the POR). For further discussion of this request, see the ''Partial Rescission of Review'' section of this notice, below.

On October 26, 2007, the Department postponed the preliminary results in this review until no later than February 28, 2008. *See Certain Frozen Warmwater Shrimp From Brazil, Ecuador, India, Thailand, and the Socialist Republic of Vietnam: Notice of Extension of Time Limits for the Preliminary Results of the Second Administrative Reviews*, 72 FR 60800 (Oct. 26, 2007).

On November 13, 2007, we again contacted the Kadalkanny Group regarding the affiliation among the individual members of the Group. We received its response in December 2007.

On December 10, 2007, we requested that Devi provide additional information related to its reported comparison market sales.

On December 20, 2007, we determined that it was appropriate to collapse the companies within the Kadalkanny Group and thus to treat them as a single entity in this proceeding, in accordance with 19 CFR 351.401(f). For further discussion, see the ''Collapsing the Kadalkanny Group'' section of this notice, below.

During the period October 2007 through February 2008, we issued to Falcon and Devi several supplemental questionnaires regarding sections A, B, C, and D of the original questionnaires. We received responses to these questionnaires during the period November 2007 through February 2008.

On January 8, 2008, we notified interested parties of our intent to rescind this administrative review with respect to a number of Indian producers/exporters of subject merchandise. *See* the memorandum to the File from Elizabeth Eastwood, Senior Analyst, entitled, ''Intent to Rescind In Part the 2006–2007 Antidumping Duty Administrative Review on Frozen Warmwater Shrimp from India,'' dated January 8, 2008 (Intent to Rescind Memo).

On January 11, 2008, we received comments on the Intent to Rescind Memo from a non–selected Indian producer/exporter participating in this review, Asvini Fisheries Private Limited (Asvini). In its January 11 submission, Asvini notified us that it had changed its name during the POR from Asvini Fisheries Limited to Asvini, and it requested that the Department not rescind the review with respect to Asvini under its former name.

On January 25, 2008, we published a notice rescinding the administrative review with respect to 114 companies, based on: 1) timely withdrawals of the review requests; 2) confirmed statements of no shipments during the POR; 3) our inability to locate certain companies; and/or 4) duplicated names in our notice of initiation. *See Certain Frozen Warmwater Shrimp from India; Partial Rescission of Antidumping Duty Administrative Review*, 73 FR 6125 (Feb. 1, 2008) (*Notice of Rescission*). *See also* the Intent to Rescind Memo.

On February 5, 2008, we solicited information from Asvini regarding its name change, which the company supplied on February 19, 2008. After analyzing this information, we preliminarily find that Asvini Fisheries Private Limited is the successor–in-interest to Asvini Fisheries Limited. For further discussion, see the ''Successor–in-Interest'' section of this notice, below.

Finally, on February 28, 2008, we requested additional information from Devi and Falcon regarding their reported U.S. sales of subject merchandise. Because this information is not due until after the date of these preliminary results, we will consider it for purposes of the final results.

Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild–caught (ocean harvested) or farm–raised (produced by aquaculture), head–on or head–off, shell–on or peeled, tail–on or tail–off,[5] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of

[5] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild–caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: 1) breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell–on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain battered shrimp. Dusted shrimp is a shrimp–based product: 1) that is produced from fresh (or thawed–from-frozen) and peeled shrimp; 2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; 3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; 4) with the non–shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and 5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp–based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par–fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

Successor–in-Interest

In making a normal successor–in-interest determination, the Department examines several factors including, but not limited to, changes in: (1) management; (2) production facilities; (3) supplier relationships; and (4) customer base. *See Notice of Final Results of Changed Circumstances Antidumping Duty Administrative Review: Polychloroprene Rubber From Japan*, 67 FR 58 (Jan. 2, 2002), and *Brass Sheet and Strip from Canada; Final Results of Antidumping Duty Administrative Review*, 57 FR 20460 (May 13, 1992). While no one of these factors is dispositive, the Department will generally consider the new company to be the successor to the previous company if its resulting operation is not materially dissimilar to that of its predecessor. *See Industrial Phosphoric Acid from Israel; Final Results of Antidumping Duty Changed Circumstances Review*, 59 FR 6944 (Feb. 14, 1994); and *Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Certain Orange Juice from Brazil*, 71 FR 2183 (Jan. 13, 2006).

As noted above, during the course of this review, two Indian producers/exporters of subject merchandise informed the Department that they have changed their names and are now doing business under new names. As a result, we are conducting investigations to determine whether the new companies are successors–in-interest to the former entities. Our findings are discussed below.

A. Asvini

In April 2007, Asvini submitted a consolidated response to the Department's Q&V questionnaire on behalf of itself and Asvini Fisheries Limited. In this submission, Asvini informed the Department that the two companies are the same entity, and that, until March 2005, Asvini had operated under the name Asvini Fisheries Limited. Asvini provided a ''Fresh Certificate of Incorporation Consequent on Change of Name'' demonstrating that Asvini Fisheries Limited was converted from a public company to a private company at that time and renamed Asvini Fisheries Private Limited.

In January 2008, based on Asvini's assertions in its April 2007 submission, the Department notified all interested parties that it intended to rescind the review with respect to Asvini Fisheries Limited because it considered this company name to be a duplicate of Asvini. *See* the Intent to Rescind Memo. At that time, we afforded all interested an opportunity to comment on this action. On January 11, 2008, Asvini requested that the Department not rescind the review for Asvini Fisheries Limited because, although this company name no longer legally existed during the POR, Asvini continued to use it to make shipments of subject merchandise to the United States. According to Asvini, this occurred because the customs bond required by CBP was still in the name of Asvini Fisheries Limited and CBP insisted that the company name on the entry documents conform to the bond. On February 5, 2008, we requested information related to Asvini's name change to determine if Asvini is the successor–in-interest to Asvini Fisheries Limited. Specifically, we requested that Asvini address any changes in the four factors noted above (*i.e.*, management, production facilities for the subject merchandise, supplier relationships, and customer base) in the former company and the reincorporated entity.

On February 19, 2008, Asvini responded to the Department's request. In this submission, Asvini provided evidence that, in March 2005, Asvini Fisheries Limited changed its name to Asvini Fisheries Private Limited, and that the name change had no effect on the company's operations. According to Asvini, there were no changes to Asvini Fisheries Limited's management, production facilities for the subject merchandise, supplier relationships, or customer base as a result of the change in corporate structure. Specifically, Asvini maintained that the only change as a result of the name change was to convert the company from a public limited company under Indian law to a private limited company.

Based on our analysis of Asvini's February 19, 2008, submission, we preliminarily find that Asvini Fisheries Limited's organizational structure, management, production facilities, supplier relationships, and customers have remained essentially unchanged. Further, we preliminarily find that Asvini operates as the same business entity as Asvini Fisheries Limited with respect to the production and sale of

shrimp. Thus, we preliminarily find that Asvini is the successor–in-interest to Asvini Fisheries Limited, and, as a consequence, the Department has treated these companies as the same entity for purposes of this proceeding. For further discussion, see the memorandum to James Maeder, Office Director, from Henry Almond, Analyst, entitled, ''Successor–In-Interest Determination for Asvini Fisheries Private Limited and Asvini Fisheries Limited in the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India,'' dated February 28, 2008.

B. Surya

In May 2007, Surya informed the Department that the company changed its name at the beginning of the POR to Suryamitra, and it is now doing business under this new name. As a result, on June 13, 2007, we requested that Suryamitra address the four factors noted above (*i.e.*, management, production facilities for the subject merchandise, supplier relationships, and customer base) with respect to this change in name in order to determine whether Suryamitra is the successor–in-interest to Surya.

On June 27, 2007, Suryamitra responded to the Department's request. In this submission, Suryamitra provided evidence that, in February 2006, Surya changed its name to Suryamitra, and that the name change had no effect on the company's operations. According to this evidence, Suryamitra explained that there were no changes to Surya's management, production facilities for the subject merchandise, supplier relationships, or customer base as a result of the change in corporate structure. Specifically, Suryamitra maintained that the only change as a result of the name change was to convert the company from a partnership firm under Indian law to a private limited company. On January 29, 2008, we requested additional documentation from Suryamitra to support its statements that the name change did not affect its production facilities, supplier relationships, and customer base. Suryamitra provided this information on February 27, 2008.

Based on our analysis of Suryamitra's June 27, 2007, and February 27, 2008, submissions, we preliminarily find that Surya's organizational structure, management, production facilities, supplier relationships, and customers have remained essentially unchanged. Further, we preliminarily find that Suryamitra operates as the same business entity as Surya with respect to the production and sale of shrimp. Thus, we preliminarily find that Suryamitra is the successor–in-interest to Surya and, as a consequence, the Department has treated these companies as the same entity for purposes of this proceeding. For further discussion, see the memorandum to James Maeder, Office Director, from Elizabeth Eastwood, Senior Analyst, entitled, ''Successor–In-Interest Determination for Surya Marine Exports and Suryamitra Exim Pvt. Ltd. in the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India,'' dated February 28, 2008.

Collapsing the Kadalkanny Group

As noted above, on April 23, 2007, the Kadlakanny Group submitted a consolidated response to the Department's Q&V questionnaire. In October and December 2007, we received information from these companies regarding their relationships with each other during the POR. After an analysis of this information, we determined that, in accordance with 19 CFR 351.401(f), it is appropriate to collapse these entities for purposes of this review because: 1) entities within the group are affiliated and have production facilities for identical or similar merchandise that would not require significant retooling in order to restructure manufacturing priorities; and 2) a significant potential for manipulation exists due to common ownership, overlapping management and board of directors, and intertwined operations. For further discussion, see the memorandum from The Team to James Maeder, Director, Office 2, entitled ''Whether to Collapse Kadalkanny Frozen Foods, Edhayam Frozen Foods Pvt. Ltd., Diamond Seafood Exports, and Theva & Co. in the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India,'' dated December 20, 2007.

Preliminary Partial Rescission of Review

As noted above, in February 2007, the Department received timely requests, in accordance with 19 CFR 351.213(b)(1), from the petitioner and the LSA to conduct a review of the four Indian producers/exporters of subject merchandise in the Kadalkanny Group. The Department initiated a review of these four companies and requested that they supply data on the quantity and value of their exports of shrimp during the POR. In April 23, 2007, the Kadalkanny Group submitted a consolidated response to the Department's Q&V questionnaire, in which it indicated that only one of its members (*i.e.*, Kadalkanny) exported subject merchandise to the United States during the POR.

Both the petitioner and the LSA withdrew their administrative review requests for Kadalkanny. Moreover, we confirmed with CBP the claims made by two additional members of this group, Diamond and Theva, that they had no shipments of subject merchandise during the POR. Finally, on January 17 and February 7, 2008, we received information from Edhayam which demonstrated that its sole entry of subject merchandise during the POR was not a reportable transaction because it was a free sample. 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 the Kadalkanny Group. *See*, *e.g.*, *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).

In addition, also as noted above, in October 2007 MPEDA requested that the Department rescind the administrative review with respect to the following Indian companies: 1) those exporters for which the review was requested solely by either the petitioner or the LSA, based on the claim that these requests did not meet the requirement of 19 CFR 351.213(b); and 2) any exporters which are not registered with MPEDA and did not respond to the Department's request for information, based on the claim that these companies do not have export licenses and are not permitted to export products from India (and, thus, could not have shipped subject merchandise to the United States during the POR). After considering these requests, we find that there is no basis to rescind this administrative review for any companies other than those in the Kadalkanny Group. Specifically, regarding MPEDA's first point, under 19 CFR 351.213(b), a party requesting an administrative review must list the individual exporters or producers for which it is requesting administrative reviews and state why it desires the Department to review those particular exporters or producers. The review requests submitted by both the petitioner and the LSA satisfied the requirements of 19 CFR 351.213(b), and thus there is no basis to rescind the administrative reviews requested by these parties. Regarding MPEDA's second point, under the regulations the Department may only rescind administrative reviews for which the

requester maintains its request if the Department concludes that the respondent had no shipments during the POR pursuant to 19 CFR 351.213(d)(3). We have examined the evidence placed on the record by MPEDA to demonstrate that certain respondents could not have shipped subject merchandise during the POR and find that this information is contradicted by information placed on the record by other parties to this proceeding. Specifically, we note that certain of the companies that MPEDA claims are prohibited from exporting subject merchandise did, in fact, provide data on their exports of such merchandise to the Department in their Q&V questionnaire responses, and thus the information submitted by MPEDA is not reliable. *See*, *e.g.*, the April 20, 2007, Q&V questionnaire response of Devi Sea Foods Limited; and the April 23, 2007, Q&V questionnaire responses of Asvini Fisheries Limited, Selvam Exports Private Limited, Asvini Exports, Devi Fisheries Limited, Satya Seafoods Private Limited, Usha Seafoods, Five Star Marine Exports Private Limited, Sagar Grandhi Exports Pvt. Ltd., GVR Exports Pvt. Ltd., Star Agro Marine Exports Private Limited, Wellcome Fisheries Limited, and Vinner Marine. Further, because our review covers the first party in the commercial chain that had knowledge that the merchandise was ultimately destined for the United States, the mere fact that a company subject to the review did not have an export license and was not the official exporter does not disqualify it from the review or otherwise require that we rescind the review of these companies. *See Certain Frozen Warmwater Shrimp from India: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 52055 (Sept. 12, 2007), and accompanying Issues and Decisions Memorandum at Comment 12 (*citing Hyundai Elecs. Indus. Co. v. United States*, 342 F. Supp.2d 1141, 1146 (CIT 2004)); and *Certain Cut–to-Length Carbon–Quality Steel Plate Products From Italy: Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 39299 (July 12, 2006), and accompanying Issues and Decisions Memorandum at Comment 1 (''[U]nder section 772(a) of the Act, the basis for export price is the price at which the first party in the chain of distribution who has knowledge of the U.S. destination of the merchandise sells the subject merchandise, either directly to a U.S. purchaser or to an intermediary such as a trading company. The party making such a sale, with knowledge of the destination, is the appropriate party to be reviewed.''). Consequently, we preliminarily determine that it is not appropriate to rely upon the information submitted by MPEDA or to partially rescind the review based on MPEDA's October 19, 2007, request.

Application of Facts Available

Section 776(a) of the Tariff Act of 1930, as amended, provides that the Department will apply ''facts otherwise available'' if, *inter alia*, necessary information is not available on the record or an interested party: 1) withholds information that has been requested by the Department; 2) fails to provide such information within the deadlines established, or in the form or manner requested by the Department, subject to subsections (c)(1) and (e) of section 782 of the Act; 3) significantly impedes a proceeding; or 4) provides such information, but the information cannot be verified.

As discussed in the ''Background'' section above, in April 2007, the Department requested that all companies subject to review respond to the Department's Q&V questionnaire for purposes of mandatory respondent selection. The original deadline to file a response was April 23, 2007. Of the 319 companies initially subject to review, numerous companies did not respond to the Department's initial requests for information. Subsequently, in May 2007 and then again in June 2007, the Department issued letters to these companies affording them additional opportunities to submit a response to the Department's Q&V questionnaire. However, 126 companies also failed to respond to the Department's final requests for Q&V data.[6] On February 25, 2008, the Department placed documentation on the record confirming delivery of the questionnaires to each of these companies. *See* the memorandum to the File from Elizabeth Eastwood, Senior Analyst, entitled, ''Placing Delivery Information on the Record of the 2006–2007 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from India,'' dated February 25, 2008. By failing to respond to the Department's Q&V questionnaire, these companies withheld requested information and significantly impeded the proceeding. Thus, pursuant to sections 776(a)(2)(A) and (C) of the Act, because these companies did not respond to the Department's questionnaire, the Department preliminarily finds that the use of total facts available is warranted.

Furthermore, one additional company, Gajula, claimed that it made no shipments of subject merchandise to the United States during the POR. However, because we were unable to confirm the accuracy of Gajula's claim with CBP, we requested further information/clarification from this exporter. Gajula responded to the Department's inquiry via e–mail on August 16, 2007, but did not indicate if its submission contained either public or business proprietary information. Therefore, on August 16, 2007, we informed Gajula via e–mail of the Department's filing requirements. *See* the memorandum to the File from Nichole Zink, Analyst, entitled, ''Placing E–mail to Gajula Exim (P) Ltd. on the Record in the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India'' (First Gajula E–Mail Memo), dated August 16, 2007. On August 22, 2007, Gajula submitted a hard copy of its response, but again failed to follow the Department's filing requirements and failed to indicate if the submission contained business proprietary or public information. On September 7, 2007, we issued a letter to Gajula again informing the company of the Department's filing requirements, providing information regarding the treatment of proprietary information and the preparation of a public version of a response, and requiring it to properly file its response. On September 29, 2007, Gajula faxed a letter to the Department in which it stated that the information contained in its August submission should be treated as business proprietary information. However, Gajula did not indicate the specific information in the August submission which should be designated as business proprietary. As a result, on October 1 and 17, 2007, we provided Gajula additional detailed instructions regarding the treatment of proprietary information and the preparation of a public version of a response, and we again required it to properly file its submissions on the record of this proceeding. *See* the memorandum to the File from Elizabeth Eastwood, Senior Analyst, entitled, ''Placing October E–Mail Correspondence with Gajula Exim (P) Ltd. on the Record of the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India'' (Second Gajula E–Mail Memo), dated October 17, 2007. Gajula failed to respond to the Department's October communications

[6] These companies are listed in the ''Preliminary Results of the Review'' section of this notice under the heading ''AFA Rate Applicable to the Following Companies.''

and did not remedy the deficiencies in its August submission.

Although the Department afforded Gajula multiple opportunities to correct the procedural deficiencies in its response, it failed to do so. By failing to respond to the Department's requests, Gajula withheld requested information and significantly impeded the proceeding. Consequently, pursuant to sections 776(a)(2)(A) and (C) of the Act, the Department preliminarily finds that the use of total facts available for Gajula is appropriate.

According to section 776(b) of the Act, if the Department finds that 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 that is adverse to the interests of that party in selecting from 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. Rep. No. 103–316, Vol. 1, at 870 (1994) (*SAA*), reprinted in 1994 U.S.C.C.A.N. 4040, 4198–99. 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*, 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*). We preliminarily find that each of the 127 companies listed under the heading ''AFA Rate Applicable to the Following Companies'' in the ''Preliminary Results of the Review'' section of this notice, below, did not act to the best of their abilities in this proceeding, within the meaning of section 776(b) of the Act, because they failed to respond to the Department's requests for information. Therefore, an adverse inference is warranted in selecting from the facts otherwise available with respect to these companies. *See Nippon*, 337 F.3d at 1382–83.

Section 776(b) of the Act provides that the Department may use as AFA information derived from: 1) the petition; 2) the final determination in the investigation; 3) any previous review; or 4) any other information placed on the record.

The Department's practice, when selecting an AFA rate from among the possible sources of information, has been to ensure that the margin is sufficiently adverse ''as to effectuate the statutory purposes of the adverse facts available rule 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 (Nov. 7, 2006).

In order to ensure that the margin is sufficiently adverse so as to induce cooperation, we have preliminarily assigned a rate of 110.9 percent, which is the highest rate alleged in the petition (as adjusted at the initiation of the LTFV investigation). *See Notice of Initiation of Antidumping Duty Investigations: Certain Frozen and Canned Warmwater Shrimp From Brazil, Ecuador, India, Thailand, the People's Republic of China and the Socialist Republic of Vietnam*, 69 FR 3876, 3880 (Jan. 27, 2004). The Department finds that this rate is sufficiently high as to effectuate the purpose of the facts available rule (*i.e.*, we find that this rate is high enough to encourage participation in future segments of this proceeding in accordance with section 776(b) of the Act).

Information from the petition constitutes secondary information and section 776(c) of the Act provides that the Department shall, to the extent practicable, corroborate that secondary information from independent sources reasonably at its disposal. The Department's regulations provide that ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* 19 CFR 351.308(d); *see also SAA* at 870. To the extent practicable, the Department will examine the reliability and relevance of the information to be used.

To corroborate the margins in the petition, we compared them to the transaction–specific rates calculated for each respondent in this review. We find that the highest rate alleged in the petition (as adjusted at the initiation of the LTFV investigation), 110.9 percent, is reliable and relevant because it is similar to a transaction–specific margin calculated for a mandatory respondent and there is no evidence on the record of this administrative review to indicate that this transaction–specific margin is aberrational. *See Notice of Preliminary Results of Antidumping Duty Administrative Review; Partial Rescission and Postponement of Final Results: Certain Softwood Lumber Products from Canada*, 71 FR 33964, 33968 (June 12, 2006). For the company–specific information used to corroborate this rate, see the memorandum to the File from Henry Almond, Analyst, entitled ''Corroboration of Adverse Facts Available Rate for the Preliminary Results in the 2006–2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from India,'' dated February 28, 2008. Therefore, we have determined that the 110.9 percent margin is appropriate as AFA and are assigning it to the uncooperative companies listed above.

Further, the Department will consider information reasonably at its disposal as to whether there are circumstances that would render a margin inappropriate. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department may disregard the margin and determine an appropriate margin. *See*, *e.g.*, *Fresh Cut Flowers from Mexico; Final Results of Antidumping Duty Administrative Review*, 61 FR 6812, 6814 (Feb. 22, 1996) (where the Department disregarded the highest calculated margin as AFA because the margin was based on a company's uncharacteristic business expense resulting in an unusually high margin). Therefore, we examined whether any information on the record would discredit the selected rate as reasonable facts available. We were unable to find any information that would discredit the selected AFA rate.

Because we did not find evidence indicating that the selected margin is not appropriate and because this margin is similar to a transaction–specific margins calculated for a mandatory respondent, we have preliminarily determined that the 110.9 percent margin, as alleged in the petition and adjusted at the initiation of the LTFV investigation, is appropriate as AFA and are assigning this rate to the 127 companies listed under the heading ''AFA Rate Applicable to the Following Companies'' in the ''Preliminary Results of the Review'' section of this notice, below.

Duty Absorption

On April 5, 2007, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Although this review was initiated two years after the publication of the order, Falcon, one of the two mandatory respondents, made only

export price (EP) sales to unaffiliated parties during the POR, while Devi, the other mandatory respondent, acted as the importer of record for both its EP and constructed export price (CEP) sales during the POR. Therefore, it is not appropriate to make a duty absorption determination in this segment of the proceeding within the meaning of section 751(a)(4) of the Act. *See Agro Dutch Industries Ltd. v. United States*, 508 F.3d 1024, 1033 (Fed. Cir. 2007).

Comparisons to Normal Value

To determine whether sales of certain frozen warmwater shrimp from India to the United States were made at less than NV, we compared the EP or CEP to the NV, as described in the ''Constructed Export Price/Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to sections 773(a)(1)(B)(i) and 777A(d)(2) of the Act, for Devi and Falcon, we compared the EPs or CEPs of individual U.S. transactions, as applicable, to the weighted–average NV of the foreign like product in the appropriate corresponding calendar month where there were sales made in the ordinary course of trade, as discussed in the ''Cost of Production Analysis'' section below.

Product Comparisons

In accordance with section 771(16)(A) of the Act, we considered all products produced by Devi and Falcon covered by the description in the ''Scope of the Order'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Pursuant to 19 CFR 351.414(e)(2), we compared U.S. sales of non–broken shrimp to sales of non–broken shrimp made in Canada (for Devi) and Japan (for Falcon) within the contemporaneous window period, which extends from three months prior to the month of the first U.S. sale until two months after the last U.S. sale. Where there were no sales of identical non–broken merchandise in the comparison market made in the ordinary course of trade to compare to U.S. sales, according to section 771(16)(B) of the Act, we compared U.S. sales to sales of the most similar foreign like product made in the ordinary course of trade. For Devi and Falcon, where there were no sales of identical or similar merchandise, we made product comparisons using constructed value (CV). *See* section 773(a)(4) of the Act.

With respect to sales comparisons involving broken shrimp, we compared Falcon's sales of broken shrimp in the United States to CV because Falcon made no sales of broken shrimp in its comparison market.

In making the product comparisons, we matched foreign like products based on the physical characteristics reported by Devi and Falcon in the following order: cooked form, head status, count size, organic certification, shell status, vein status, tail status, other shrimp preparation, frozen form, flavoring, container weight, presentation, species, and preservative.

Constructed Export Price/Export Price

For all U.S. sales made by Falcon, and for certain U.S. sales made by Devi, we used EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and CEP methodology was not otherwise warranted based on the facts of record.

For the remaining U.S. sales made by Devi, we calculated CEP in accordance with section 772(b) of the Act because the subject merchandise was sold for the account of this company by its subsidiary in the United States to unaffiliated purchasers.

A. Devi

We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price for discounts in accordance with 19 CFR 351.401(c). We also made deductions from the starting price for foreign inland freight expenses, other miscellaneous shipment charges, foreign brokerage and handling expenses, international freight expenses (including terminal handling charges), marine insurance, U.S. customs duties, U.S. brokerage and handling expenses, U.S. warehousing expenses, and U.S. inland freight expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act. We also made deductions for export taxes in accordance with section 772(c)(2)(B) of the Act.

In accordance with section 772(b) of the Act, we calculated CEP for those sales where the merchandise was first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter. We based CEP on the packed delivered prices to unaffiliated purchasers in the United States. Where appropriate, we made adjustments for discounts and rebates in accordance with 19 CFR 351.401(c). We made deductions for movement expenses, in accordance with section 772(c)(2)(A) of the Act; these included, where appropriate, foreign inland freight expenses, foreign warehousing expenses, foreign inland insurance expenses, foreign brokerage and handling expenses, ocean freight expenses, marine insurance expenses, U.S. brokerage and handling expenses, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), U.S. inland insurance expenses, U.S. inland freight expenses (*i.e.*, freight from port to warehouse and freight from warehouse to the customer), and U.S. warehousing expenses.

In accordance with section 772(d)(1) of the Act and 19 CFR 351.402(b), we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (*i.e.*, bank charges, export inspection agency (EIA) fees, imputed credit expenses, and other direct selling expenses), commissions, and indirect selling expenses (including inventory carrying costs and other indirect selling expenses). For those sales for which Devi had not received payment as of the date of its most recent questionnaire response, we recalculated U.S. credit expenses using the date of the preliminary results as the date of payment. Finally, where commissions were paid in the U.S. market but not in the comparison market, we offset these commissions by the lesser of: 1) the amount of commission paid in the U.S. market; or 2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the comparison market. We recalculated inventory carrying costs using the manufacturing costs reported in Devi's most recent COP database, adjusted as noted in the ''Calculation of Cost of Production'' section of this notice, below.

Pursuant to section 772(d)(3) of the Act, we further reduced the starting price by an amount for profit to arrive at CEP. In accordance with section 772(f) of the Act, we calculated the CEP profit rate using the expenses incurred by Devi and its U.S. affiliate on their sales of the subject merchandise in the United States and the profit associated with those sales.

B. Falcon

We based EP on packed prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price for discounts in accordance with 19 CFR 351.401(c). We also made deductions from the starting price for cold storage

expenses, loading and unloading expenses, trailer hire expenses, foreign inland freight expenses, port charges, export survey charges, terminal and handling charges, other miscellaneous shipment charges, foreign brokerage and handling expenses, international freight expenses, marine insurance expenses, U.S. customs duties (including harbor maintenance fees and merchandise processing fees), and U.S. brokerage and handling expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act. We also made deductions for export taxes in accordance with section 772(c)(2)(B) of the Act.

Normal Value

A. Home Market Viability and Selection of Comparison Markets

In order 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 the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

We determined that the aggregate volume of home market sales of the foreign like product for Devi and Falcon was insufficient to permit a proper comparison with U.S. sales of the subject merchandise. Therefore, we used sales to Canada and Japan as the basis for comparison market sales for Devi and Falcon, respectively, in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404 because, among other things, sales of foreign like product in these third country markets were the most similar to the subject merchandise. *See* the Selection of Third Country Markets Memo for further discussion.

B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *Id. See also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (Nov. 19, 1997) (*Plate from South Africa*). 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 chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),[7] we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Tech., Inc.* v. *United States*, 243 F.3d 1301, 1314–16 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or CEP sales at a different LOT in the comparison market, where available data make it possible, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was possible), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See*, *e.g.*, *Plate from South Africa*, 62 FR at 61732–33.

In this administrative review, we obtained information from each respondent regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company–specific LOT findings are summarized below.

1. Devi

Devi reported that it made sales through two channels of distribution in the United States (*i.e.*, EP sales made directly to unaffiliated customers and CEP sales via an affiliated reseller); however, it stated that the selling activities it performed did not vary by channel of distribution. Devi reported performing the following selling functions for its U.S. sales: handling of sales inquiries, order processing, sales planning, personnel training, sales promotion, warranty service, freight and delivery services (including pre–shipment inspection, foreign transportation, export customs clearance, U.S. import clearance, and U.S. transportation), inventory maintenance in India, extension of credit to U.S. customers, and packing. These selling activities can be generally grouped into four core selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and, 4) warranty and technical support. Accordingly, based on the core selling functions, we find that Devi performed sales and marketing, freight and delivery services, inventory maintenance and warehousing, and warranty and technical support for U.S. sales. Because Devi's selling activities did not vary by distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to Canada, Devi reported that it made sales through a single channel of distribution (*i.e.*, sales made directly to unaffiliated customers). We examined the selling activities performed for third country sales and found that Devi performed the following selling functions: handling of sales inquiries, order processing, sales planning, personnel training, sales promotion, warranty service, freight and delivery services (including pre–shipment inspection and foreign transportation), inventory maintenance in India, extension of credit to Canadian customers, and packing. Accordingly, based on the core selling functions noted above, we find that Devi performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing, and warranty and technical services for third country sales. Because all third country sales are made through a single distribution channel and the selling activities to Devi's customers did not vary within this channel, we preliminarily determine that there is one LOT in the third country market for Devi.

Finally, we compared the U.S. LOT to the third country market LOT and found that the core selling functions performed for U.S. and third country market customers do not differ. Therefore, we determine that sales to the U.S. and third country markets during the POR were made at the same LOT, and as a result, no LOT adjustment is warranted.

[7] Where NV is based on CV, we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (G&A) expenses, and profit for CV, where possible.

2. Falcon

Falcon reported that it made EP sales in the U.S. market to trading companies and distributors. Because Falcon reported no difference in the selling activities it performed for these two customer categories, we find that there is only one channel of distribution for Falcon's EP sales. We examined the selling activities performed for this channel and found that Falcon performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight and the provision of customs clearance/brokerage services; cold storage and inventory maintenance; quality assurance related activities; payment receipt; and packaging services. These selling activities can be generally grouped into four core selling function categories for analysis: 1) sales and marketing; 2) freight and delivery; 3) inventory maintenance and warehousing; and 4) warranty and technical support. Accordingly, based on the core selling functions, we find that Falcon performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for U.S. sales. Because all sales in the United States are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the third country market, Falcon reported that it made sales to trading companies. We examined the selling activities performed for third country sales, and found that Falcon performed the following selling functions: customer contact and price negotiation; order processing; arranging for freight and the provision of customs clearance/brokerage services; cold storage and inventory maintenance; quality assurance related activities; payment receipt; and packaging services. Accordingly, based on the core selling functions, we find that Falcon performed sales and marketing, freight and delivery services, and inventory maintenance and warehousing for third country sales. Because all third country sales are made through a single distribution channel and the selling activities to Falcon's customers did not vary within this channel, we preliminarily determine that there is one LOT in the third country market for Falcon.

Finally, we compared the EP LOT to the third country market LOT and found that the core selling functions performed for U.S. and third country market customers do not differ. Therefore, we determine that sales to the U.S. and third country markets during the POR were made at the same LOT, and as a result, no LOT adjustment is warranted.

C. Cost of Production Analysis

We found that Devi had made sales below the COP in the LTFV investigation, the most recently completed segment of this proceeding as of the date the questionnaire was issued in this review, and such sales were disregarded. *See Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp from India*, 69 FR 47111, 47116–17 (Aug. 4, 2004); unchanged in *Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Frozen and Canned Warmwater Shrimp From India*, 69 FR 76916 (Dec. 23, 2004) (*LTFV Final Determination*). Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Devi made sales in the third country market at prices below the cost of producing the merchandise in the current review period.

Moreover, based on our analysis of the petitioner's allegation, we found that there were reasonable grounds to believe or suspect that Falcon's sales of frozen warmwater shrimp in the third country comparison market were made at prices below their COP. Accordingly, pursuant to section 773(b) of the Act, we initiated a sales–below-cost investigation to determine whether Falcon's sales were made at prices below their respective COPs. *See* the Sales–Below-Cost Memo for Falcon.

1. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the respondents' COPs based on the sum of their costs of materials and conversion for the foreign like product, plus amounts for G&A expenses and interest expenses (*see* ''Test of Comparison Market Sales Prices'' section, below, for treatment of third country selling expenses).

The Department relied on the COP data submitted by each respondent in its most recently submitted cost database for the COP calculation, except for the following instances:

a. *Devi*

i. We included hatchery expenses, as well as Devi's reported input taxes, in the calculation of Devi's total cost of manufacture.

ii. We recalculated Devi's financial and G&A expense ratios to include windmill power generation expenses and hatchery expenses in the cost of goods sold used as the denominator of both ratios. In calculating Devi's financial expense ratio, we also added interest on a term loan for the windmill to net interest expenses.

For further discussion of these adjustments, see the memorandum from Laurens van Houten, Senior Accountant, to Neal M. Halper, Director, Office of Accounting, entitled, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - Devi Sea Foods Limited,'' dated February 28, 2008.

b. *Falcon*

We relied on the cost database submitted by Falcon in its February 19, 2008, response.

2. Test of Comparison Market Sales Prices

On a product–specific basis, we compared the adjusted weighted–average COP to the third country 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. For purposes of this comparison, we used COP exclusive of selling and packing expenses. The prices (inclusive of billing adjustments, where appropriate) were exclusive of any applicable movement charges, rebates, direct and indirect selling expenses and packing expenses, revised where appropriate, as discussed below under the ''Price–to-Price Comparisons'' section.

3. Results of the COP Test

In determining whether to disregard third country sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act: 1) whether, within an extended period of time, such sales were made in substantial quantities; and 2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. In accordance with section 773(b)(2)(C)(i) of the Act, where less than 20 percent of the respondent's third country sales of a given product are at prices less than the COP, we do not disregard any below–cost sales of that product because we determine that in such instances the below–cost sales were not made within an extended period of time and in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard the below–cost

sales when: 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.

We found that, for certain products, more than 20 percent of Devi's and Falcon's third country 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.

For those U.S. sales of subject merchandise for which there were no useable third country sales in the ordinary course of trade, we compared CEPs or EPs, as appropriate, to the CV in accordance with section 773(a)(4) of the Act. *See* ''Calculation of Normal Value Based on Constructed Value'' section below.

D. Calculation of Normal Value Based on Comparison Market Prices

1. *Devi*

For Devi, we calculated NV based on delivered prices to unaffiliated customers in Canada. We made adjustments to the starting price, where appropriate, for discounts in accordance with 19 CFR 351.401(c). We made deductions for export taxes, in accordance with section 773(a)(6)(B)(iii) of the Act. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Carbon and Certain Alloy Steel Wire Rod from Brazil*, 67 FR 18165, 18169 (Apr. 15, 2002) (*Steel Wire Rod from Brazil Preliminary Determination*), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold–Rolled Carbon Steel Flat Products From Brazil*, 67 FR 62134 (Oct. 3, 2002) (*Steel Wire Rod from Brazil Final Determination*). We also made deductions for foreign inland freight expenses, other miscellaneous shipment charges, foreign brokerage and handling expenses, and international freight expenses (including terminal handling charges) under section 773(a)(6)(B) of the Act.

For comparisons to EP sales, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for direct selling expenses (including bank charges, EIA fees, imputed credit expenses, and other direct selling expenses), and commissions. Where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: 1) the amount of commission paid in the U.S. market; or 2) the amount of indirect selling expenses incurred in the comparison market. *See* 19 CFR 351.410(e). If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology. *Id.*

For comparisons to CEP sales, in accordance with section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410, we deducted from NV direct selling expenses (including bank charges, EIA fees, imputed credit expenses, and other direct selling expenses), and commissions. Where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: 1) the amount of commission paid in the U.S. market; or 2) the amount of indirect selling expenses incurred in the comparison market. *See* 19 CFR 351.410(e). If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology. *Id.*

For all price–to-price comparisons, we made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted third country packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

2. *Falcon*

We based NV for Falcon on delivered prices to unaffiliated customers in Japan. We made adjustments, where appropriate, to the starting price for discounts in accordance with 19 CFR 351.401(c). We made deductions from the starting price for export taxes, in accordance with section 773(a)(6)(B)(iii) of the Act. *See Steel Wire Rod from Brazil Preliminary Determination*, 67 FR at 18169, unchanged in *Steel Wire Rod from Brazil Final Determination*. We also made deductions, where appropriate, from the starting price for cold storage expenses, loading and unloading expenses, trailer hire expenses, inland freight expenses, port charges, export survey charges, other miscellaneous shipment charges, foreign brokerage and handling expenses, and international freight expenses (including terminal and handling charges), under section 773(a)(6)(B)(ii) of the Act.

In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale for commissions, imputed credit expenses, bank fees, EIA fees, export credit guarantee corporation premiums, outside inspection/lab expenses, letter of credit amendment charges, and other miscellaneous selling expenses. For those sales for which Falcon had not received payment as of the date of its most recent questionnaire response, we recalculated U.S. credit expenses using the date of the preliminary results as the date of payment. Finally, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to NV for the lesser of: 1) the amount of commission paid in the U.S. market; or 2) the amount of indirect selling expenses (including inventory carrying costs) incurred in the comparison market. *See* 19 CFR 351.410(e). If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to NV following the same methodology. *Id.* We recalculated inventory carrying costs using the manufacturing costs reported in Falcon's most recent COP database.

We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. We also deducted third country packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

E. 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 CV. Accordingly, for those frozen warmwater shrimp products 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 CV.

Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication for the imported merchandise, plus amounts for selling, general, and administrative (SG&A) expenses, profit, and U.S. packing costs. For each respondent, we calculated the cost of materials and fabrication based on the methodology described in the ''Cost of Production Analysis'' section, above. We based SG&A and profit for each respondent on

the actual amounts incurred and realized by it 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 circumstances of sale in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. For comparisons to EP, we made circumstance–of-sale adjustments by deducting direct selling expenses incurred on comparison market sales from, and adding U.S. direct selling expenses to, CV. *See* 19 CFR 351.410(c). For those U.S. sales for which the respondents had not received payment as of the date of their most recent questionnaire responses, we recalculated U.S. credit expenses using the date of the preliminary results as the date of payment. For comparisons to Devi's CEP, we made circumstance–of-sale adjustments by deducting comparison market direct selling expenses from CV. *Id.* We also made adjustments, when applicable, for comparison market indirect selling expenses to offset U.S. commissions in EP and CEP comparisons. *See* 19 CFR 351.410(e).

Currency Conversion

We made currency conversions into U.S. dollars for all spot transactions by Devi and Falcon 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. In addition, both Devi and Falcon reported that they purchased forward exchange contracts which were used to convert the currency in which certain sales transactions were made into home market currency. Under 19 CFR 351.415(b), if a currency transaction on forward markets is directly linked to an export sale under consideration, the Department is directed to use the exchange rate specified with respect to such foreign currency in the forward sale agreement to convert the foreign currency. *See LTFV Final Determination* and accompanying Issues and Decisions Memorandum at Comment 6; *see also Certain Frozen Warmwater Shrimp from India: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10658, 10667 (Mar. 9, 2007), unchanged in *2004–2006 Final Results.* Therefore, for Devi and Falcon we used the reported forward exchange rates for currency conversions where applicable.

Preliminary Results of the Review

We preliminarily determine that weighted–average dumping margins exist for the respondents for the period February 1, 2006, through January 31, 2007, as follows:

Manufacturer/Exporter	Percent Margin
Devi Sea Foods Limited	0.70
Falcon Marine Exports Limited	1.69

Review–Specific Average Rate Applicable to the Following Companies:[8]

Manufacturer/Exporter	Percent Margin
Ananda Aqua Exports (P) Ltd.	1.09
Ananda Foods	1.09
Andaman Sea Foods Pvt. Ltd.	1.09
Angelique International Ltd.	1.09
Apex Exports	1.09
Asvini Exports	1.09
Asvini Fisheries Limited/Asvini Fisheries Private Limited	1.09
Avanti Feeds Limited	1.09
Bhatsons Aquatic Products	1.09
Bluepark Seafoods Pvt. Ltd.	1.09
Calcutta Seafoods	1.09
Castlerock Fisheries Pvt. Ltd.	1.09
Choice Canning Company	1.09
Choice Trading Corporation Pvt. Ltd.	1.09
Coreline Exports	1.09
Devi Fisheries Limited	1.09
Digha Sea Food Exports	1.09
Five Star Marine Exports Private Limited	1.09
GVR Exports Pvt. Ltd.	1.09
Gayatri Sea Foods	1.09
Haripriya Marine Export Pvt. Ltd.	1.09
Hindustan Lever, Ltd.	1.09
IFB Agro Industries Limited	1.09
ITC Limited, International Business Division	1.09
Jaya Satya Marine Exports Pvt. Ltd.	1.09
Jaya Lakshmi Sea Foods Pvt. Ltd.	1.09
K V Marine Exports	1.09
Kings Marine Products	1.09
Konark Aquatics & Exports Pvt. Ltd.	1.09
Magnum Estate Private Limited	1.09
Magnum Export	1.09
Magnum Sea Foods Private Limited	1.09
Mangala Marine Exim India Pvt. Ltd.	1.09
Mangala Sea Products	1.09
NGR Aqua International	1.09
Navayuga Exports Ltd.	1.09
Nekkanti Sea Foods Limited	1.09
Nila Sea Foods Pvt. Ltd.	1.09
Penver Products (P) Ltd.	1.09
RVR Marine Products Private Limited	1.09
Raa Systems Pvt. Ltd.	1.09
Raju Exports	1.09
Ram's Assorted Cold Storage Ltd.	1.09
S A Exports	1.09
Sagar Grandhi Exports Pvt. Ltd.	1.09
Sai Marine Exports Pvt. Ltd.	1.09
Sandhya Marines Limited	1.09
Satya Seafoods Private Limited	1.09
Seagold Overseas Pvt. Ltd.	1.09
Selvam Exports Private Limited	1.09
Sprint Exports Pvt. Ltd.	1.09
Sri Chandrakantha Marine Exports	1.09
Sri Sakthi Marine Products P Ltd.	1.09
Star Agro Marine Exports Private Limited	1.09
Sun–Bio Technology Limited	1.09
Surya Marine Exports/Suryamitra Exim Private Limited	1.09
Suvarna Rekha Exports Private Limited	1.09
Suvarna Rekha Marines P Ltd.	1.09
The Liberty Group (Devi Marine Food Exports Private Limited/ Kader Exports Private Limited/ Kader Investment and Trading Company Private Limited/Liberty Frozen Foods Private Limited/Liberty Oil Mills Limited/Premier Marine Products/ Universal Cold Storage Private Limited)	1.09
The Waterbase Ltd.	1.09
Usha Seafoods	1.09
Veejay IMPEX	1.09
Vinner Marine	1.09
Wellcome Fisheries Limited	1.09

AFA Rate Applicable to the Following Companies:

Manufacturer/Exporter	Percent Margin
A.S. Marine Industries Pvt. Ltd.	110.90
Adani Exports Ltd.	110.90
Aditya Udyog	110.90
Agri Marine Exports Ltd.	110.90
Al Mustafa Exp & Imp	110.90
Alapatt Marine Exports	110.90
All Seas Marine P. Ltd.	110.90
Alsa Marine & Harvests Ltd.	110.90
Ameena Enterprises	110.90
Anjani Marine Traders	110.90
Aqua Star Marine Foods	110.90
Arsha Seafood Exports Pvt. Ltd.	110.90
ASF Seafoods	110.90
Ashwini Frozen Foods	110.90
Aswin Associates	110.90
Balaji Seafood Exports I Ltd.	110.90
Baraka Overseas Traders	110.90
Bell Foods (Marine Division)	110.90
Bharat Seafoods	110.90
Bhisti Exports	110.90
Bilal Fish Suppliers	110.90
Capital Freezing Complex	110.90
Cham Exports Ltd.	110.90
Cham Ocean Treasures Co., Ltd.	110.90
Cham Trading Organization	110.90
Chand International	110.90

[8] This rate is based on the weighted average of the margins calculation for those companies selected for individual review, excluding *de minimis* margins or margins based entirely on AFA.

Manufacturer/Exporter	Percent Margin
Danda Fisheries	110.90
Dariapur Aquatic Pvt. Ltd.	110.90
Deepmala Marine Exports	110.90
Dhanamjaya Impex P. Ltd.	110.90
Dorothy Foods	110.90
El–Te Marine Products	110.90
Excel Ice Services/Chirag Int'l	110.90
Firoz & Company	110.90
Freeze Engineering Industries (Pvt. Ltd.)	110.90
Gajula Exim (P) Ltd.	110.90
Gausia Cold Storage P. Ltd.	110.90
Goan Bounty	110.90
Gold Farm Foods (P) Ltd.	110.90
Golden Star Cold Storage	110.90
Gopal Seafoods	110.90
Gtc Global Ltd.	110.90
Hanswati Exports P. Ltd.	110.90
HMG Industries Ltd.	110.90
Honest Frozen Food Company	110.90
India CMS Adani Exports	110.90
India Seafoods	110.90
Indian Seafood Corporation	110.90
Interfish	110.90
J R K Seafoods Pvt. Ltd.	110.90
Kaushalya Aqua Marine Product Exports Pvt. Ltd.	110.90
Keshodwala Foods	110.90
Key Foods	110.90
King Fish Industries	110.90
Konkan Fisheries Pvt. Ltd.	110.90
Lakshmi Marine Products	110.90
Lansea Foods Pvt. Ltd.	110.90
Laxmi Narayan Exports	110.90
M K Exports	110.90
M.R.H. Trading Company	110.90
Malabar Marine Exports	110.90
Mamta Cold Storage	110.90
Marina Marine Exports	110.90
Marine Food Packers	110.90
Miki Exports International	110.90
Mumbai Kamgar MGSM Ltd.	110.90
N.C. Das & Company	110.90
Naik Ice & Cold Storage	110.90
Nas Fisheries Pvt Ltd.	110.90
National Seafoods Company	110.90
New Royal Frozen Foods	110.90
Noble Aqua Pvt. Ltd.	110.90
Omsons Marines Ltd.	110.90
Padmaja Exports	110.90
Partytime Ice Pvt Ltd.	110.90
Philips Foods India Pvt Ltd.	110.90
Premier Exports International	110.90
R K Ice & Cold Storage	110.90
Rahul Foods (GOA)	110.90
Rahul International	110.90
Raj International	110.90
Ramalmgeswara Proteins & Foods Ltd.	110.90
Rameshwar Cold Storage	110.90
Ravi Frozen Foods Ltd.	110.90
Regent Marine Industries	110.90
Relish Foods	110.90
Royal Link Exports	110.90
Rubian Exports	110.90
Ruby Marine Foods	110.90
Ruchi Worldwide	110.90
S K Exports (P) Ltd.	110.90
SLS Exports Pvt. Ltd.	110.90
S S International	110.90
Sabri Food Products	110.90
Sagar Samrat Seafoods	110.90
Salet Seafoods Pvt Ltd.	110.90
Samrat Middle East Exports (P) Ltd.	110.90
Sarveshwari Ice & Cold Storage P Ltd.	110.90
Satyam Marine Exports	110.90
Sea Rose Marines (P) Ltd.	110.90
Sealand Fisheries Ltd.	110.90
Seaperl Industries	110.90
Sharat Industries Ltd.	110.90
Shimpo Exports	110.90
Shipper Exporter National Steel	110.90
Siddiq Seafoods	110.90
Skyfish	110.90
Sonia Fisheries	110.90
Sourab	110.90
Sreevas Export Enterprises	110.90
Sri Sidhi Freezers & Exporters Pvt. Ltd.	110.90
Star Fish Exports	110.90
Supreme Exports	110.90
The Canning Industries (Cochin) Ltd.	110.90
Tony Harris Seafoods Ltd.	110.90
Tri Marine Foods Pvt. Ltd.	110.90
Trinity Exports	110.90
Tri–Tee Seafood Company	110.90
Ulka Seafoods (P) Ltd.	110.90
Uniroyal Marine Exports Ltd.	110.90
Upasana Exports	110.90
V Marine Exports	110.90
Varnita Cold Storage	110.90
Veraval Marines & Chemicals P Ltd.	110.90
Vijayalaxmi Seafoods	110.90
Winner Seafoods	110.90
Z A. Food Products	110.90

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(c), 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. *See* 19 CFR 351.309(d). 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. *See* 19 CFR 351.309(c)(2) and (d)(2).

Pursuant to 19 CFR 351.310(c), 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. *Id.* Issues raised in the hearing will be limited to those raised in the respective case briefs. The Department will issue the final results of this administrative review, including the results of its analysis of the 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 Rates

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(b)(1). 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.

Where Devi and Falcon reported the entered value for their U.S. sales, we will calculate importer–specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the sales for which entered value was reported. For Falcon's U.S. sales reported without entered values, we will calculate importer–specific per–unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. *See* 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate 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 this review if any importer–specific assessment rate calculated in the final results of this review is above *de minimis*. 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*. 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. *See* 751(a)(2)(C) of the Act.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this 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 this review, 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 previously reviewed or investigated companies not participating 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, or the original 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 10.17 percent, the all–others rate made effective by the LTFV investigation. *See Shrimp Order*, 70 FR at 5148. These deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: February 28, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–4417 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–331–802]

Certain Frozen Warmwater Shrimp From Ecuador: Preliminary Results and Preliminary Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp from Ecuador with respect to 45 companies.[1] The respondents which the Department selected for individual review are OceanInvest, S.A. (OceanInvest) and Promarisco, S.A. (Promarisco). The respondents which were not selected for individual review are listed in the ''Preliminary Results of Review'' section of this notice. This is the second administrative review of this order. The period of review (POR) covers February 1, 2006, through January 31, 2007.

We preliminarily determine that sales made to the United States by OceanInvest have been made below normal value (NV) and that sales made to the United States by Promarisco have not been made below NV. In addition, based on the preliminary results for the respondents selected for individual review, we have determined a preliminary weighted-average margin for those companies that were not selected for individual review but were responsive to the Department's requests for information.

If the preliminary results are adopted in our final results of administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Interested parties are invited to comment on the preliminary results.

EFFECTIVE DATE: March 6, 2008.

FOR FURTHER INFORMATION CONTACT: David Goldberger or Gemal Brangman, AD/CVD Operations, Office 2, Import Administration—Room 1117, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4136 or (202) 482–3773, respectively.

SUPPLEMENTARY INFORMATION:

Background

In February 2005, the Department published in the **Federal Register** an antidumping duty order on certain frozen warmwater shrimp from Ecuador. *See Notice of Amended Final Determination and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from Ecuador,* 70 FR 5156 (February 1, 2005) (*LTFV Amended Final Determination and Order*). On February 2, 2007, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order of certain frozen warmwater shrimp from Ecuador for the period February 1, 2006, through January 31, 2007. *See Antidumping and Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review,* 72 FR 5007 (February 2, 2007). On February 28, 2007, the petitioner[2] and the Louisiana Shrimp Association (LSA), a domestic interested party, submitted timely requests that the Department conduct an administrative review of the sales of certain frozen warmwater shrimp made by numerous companies during the POR, 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).

On April 5, 2007, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. *See* ''Duty Absorption'' section below for further discussion.

On April 6, 2007, the Department published a notice of initiation of administrative review for 64 companies

[1] This figure does not include those companies for which the Department is preliminarily rescinding the administrative review. *See* ''Partial Rescission of Review'' section for further discussion.

[2] The petitioner is the Ad Hoc Shrimp Trade Action Committee.

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 POR. These companies are listed in the Department's notice of initiation. *See Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp from Brazil, Ecuador, India and Thailand,* 72 FR 17100, 17107–09 (April 6, 2007) (*Notice of Initiation*).

During the period April through July 2007, we received responses to the Department's Q&V questionnaire from 64 companies. Subsequently, the Department received timely requests for withdrawal of the administrative review with respect to many of the companies. On August 24, 2007, we published a notice rescinding the administrative review with respect to 18 companies for which the requests for a review were withdrawn in a timely manner, in accordance with 19 CFR 351.213(d)(1). *See Certain Frozen Warmwater Shrimp from Ecuador; Partial Rescission of Antidumping Duty Administrative Review,* 72 FR 48616 (August 24, 2007).

Based upon our consideration of the responses to the Q&V questionnaire 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 request remained. As a result, on July 20, 2007, we selected the two largest remaining producers/exporters by export volume of certain frozen warmwater shrimp from Ecuador during the POR, OceanInvest and Promarisco, as the mandatory respondents in this review. *See* Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from James Maeder, Director, Office 2, AD/CVD Operations, entitled ''Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from Ecuador: Selection of Respondents for Individual Review,'' dated July 20, 2007. On this same date, we issued the antidumping questionnaire to OceanInvest and Promarisco. We requested Promarisco respond to section D of the questionnaire, because we found Promarisco had made sales below cost in the most recently completed segment of the proceeding. *See* ''Cost of Production Analysis'' section below.

On May 9, August 28, and September 5, 2007, the petitioner submitted general comments regarding the selection of the appropriate comparison market in this review with regard to Promarisco. Promarisco responded to these comments on August 31, 2007.

We received responses to sections A, B and C of the questionnaire from Promarisco and OceanInvest in August and September 2007. We also received a response to section D of the questionnaire from Promarisco in September 2007.

On October 1, 2007, we determined that Spain constitute the appropriate comparison market with respect to Promarisco. *See* Memorandum to James Maeder, Director Office 2, AD/CVD Operations, from The Team entitled ''Selection of the Appropriate Third Country Market for Promarisco,'' dated October 1, 2007 (*Promarisco Comparison Market Memo*).

Also on October 1, 2007, the petitioner requested that the Department initiate a sales-below-cost investigation of OceanInvest. On October 30, 2007, we initiated this investigation. *See* Memorandum to James Maeder, Director, Office 2, AD/CVD Operations, from The Team entitled ''The Petitioner's Allegation of Sales Below the Cost of Production for OceanInvest S.A.,'' dated October 30, 2007 (*OceanInvest COP Initiation Memo*). On that date, we instructed OceanInvest to respond to section D of the Department's questionnaire. OceanInvest submitted its response to section D of the questionnaire on November 27, 2007.

On October 26, 2007, the Department postponed the preliminary results in this review until no later than February 28, 2008. *See Certain Frozen Warmwater Shrimp From Brazil, Ecuador, India, Thailand, and the Socialist Republic of Vietnam: Notice of Extension of Time Limits for the Preliminary Results of the Second Administrative Reviews,* 72 FR 60800 (October 26, 2007).

During the period October 2007 through January 2008, we issued to Promarisco and OceanInvest supplemental sections A, B, C, and D questionnaires. We received responses to these supplemental questionnaires during the period November 2007 through February 2008.

Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,[3] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

[3] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

Excluded from the scope are: (1) Breaded shrimp and prawns (HTSUS subheading 1605.20.10.20); (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled (HTSUS subheadings 0306.23.00.20 and 0306.23.00.40); (4) shrimp and prawns in prepared meals (HTSUS subheading 1605.20.05.10); (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns (HTSUS subheading 1605.20.10.40); (7) certain dusted shrimp; and (8) certain battered shrimp. Dusted shrimp is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and (5)

that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp-based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par-fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

Period of Review

The POR is February 1, 2006, through January 31, 2007.

Partial Rescission of Review

The Department received a no-shipment response from Exportadora del Oceano Pacifico OCEANPAC (Oceanpac) for which there appeared to be U.S. customs entries of subject merchandise. We requested data on the relevant entries from CBP and determined that the entries were not reportable transactions for Oceanpac. *See* Memorandum to the File entitled ''Reconciliation of Respondent ''No Shipment'' Statements to CBP Data,'' dated February 6, 2008. Under these circumstances, we determine that Oceanpac satisfies the requirement under 19 CFR 351.213(d)(3) that it did not have ''entries, exports, or sales of the subject merchandise,'' and, consistent with the Department's practice, we are preliminarily rescinding the review with respect to Oceanpac. *See, e.g., 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 (November 8, 2005).

Duty Absorption

On April 5, 2007, the petitioner requested that the Department determine whether antidumping duties had been absorbed during the POR. Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. Although this review was initiated two years after the publication of the order, neither OceanInvest nor Promarisco sold subject merchandise in the United States through an affiliated importer during the POR. Therefore, it is not appropriate to make a duty absorption determination with respect to OceanInvest and Promarisco in this segment of the proceeding within the meaning of section 751(a)(4) of the Act. *See Agro Dutch Industries Ltd. v. United States,* No. 2007–1011 (Fed. Cir. November 20, 2007).

Comparisons to Normal Value

To determine whether sales of certain frozen warmwater shrimp by OceanInvest and Promarisco to the United States were made at less than NV, we compared export price (EP) to the NV, as described in the ''Export Price'' and ''Normal Value'' sections of this notice.

Pursuant to section 777A(d)(2) of the Act, we compared the EPs of individual U.S. transactions to the weighted-average NV of the foreign like product where there were sales made in the ordinary course of trade, as discussed in the ''Cost of Production Analysis'' section below.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by OceanInvest and Promarisco covered by the description in the ''Scope of the Order'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Pursuant to 19 CFR 351.414(e)(2), we compared U.S. sales of non-broken shrimp to sales of non-broken shrimp made to Italy for OceanInvest and Spain for Promarisco within the contemporaneous window period, which extends from three months prior to the month of the U.S. sale until two months after the sale. *See* ''Home Market Viability and Selection of Comparison Markets'' section below. Where there were no non-broken 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 sales of the most similar foreign like product made in the ordinary course of trade. In making the product comparisons, we matched foreign like products based on the physical characteristics reported by OceanInvest and Promarisco in the following order: cooked form, head status, count size, organic certification, shell status, vein status, tail status, other shrimp preparation, frozen form, flavoring, container weight, presentation, species, and preservative.

Export Price

For all U.S. sales made by OceanInvest and Promarisco, we applied the EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by the producer/exporter outside of the United States directly to the first unaffiliated purchaser in the United States prior to importation and constructed export price (CEP) methodology was not otherwise warranted based on the facts of record.

A. OceanInvest

We based EP on FOB or delivered, duty-paid (DDP) prices to the first unaffiliated purchaser in the United States. We also made deductions to the starting price for demurrage expenses, foreign inland freight expenses, Ecuadorian brokerage and handling expenses, ocean freight expenses, U.S. customs duties (including merchandise processing and harbor maintenance fees), and U.S. brokerage and handling expenses, where appropriate, in accordance with section 772(c)(2)(A) of the Act.

OceanInvest reported that it received periodic ''bonus payments'' during the POR from one of its U.S. customers. Pursuant to 19 CFR 351.401(c), the Department may make post-sale price adjustments that are reasonably attributable to the subject merchandise. However, the preamble to the regulations states that exporters or producers should not be allowed ''to eliminate dumping margins by providing price adjustments 'after the fact'.'' *See Antidumping Duties; Countervailing Duties: Final Rule,* 62 FR 27296, 27344 (May 19, 1997). In addition, the Department's regulations state that, ''[t]he interested party that is in possession of the relevant information has the burden of establishing to the satisfaction of the Secretary the amount and nature of the particular adjustment * * *'' 19 CFR 351.401; *see also* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H. Rep. No. 103–316 at 829 (1994), (''[A]s with all adjustments which benefit a responding firm, the respondent must demonstrate the appropriateness of such an adjustment.''). Accordingly, where a price adjustment made after the fact lowers a respondent's dumping margin, the Department will closely examine the circumstances surrounding the

adjustment to determine whether it was a *bona fide* adjustment made in the ordinary course of business. *See Canned Pineapple Fruit from Thailand: Final Results and Partial Rescission of Antidumping Duty Administrative Review,* 71 FR 70948 (December 7, 2006), and accompanying Issues and Decision Memorandum at Comment 1.

According to OceanInvest, the bonus payments were made as part of an agreement between OceanInvest and the customer where the customer agreed to buy large quantities of subject merchandise from OceanInvest and the parties agreed to share the profits from these sales to the customer's customers. The ''bonus payments'' represent OceanInvest's profit sharing under the agreement. OceanInvest reported that it received periodic payments from the customer under this agreement, but that the payments could not be tied to specific sales. While the agreement outlines how the profit sharing returns are to be distributed, OceanInvest reports that the agreement does not provide any obligation for the customer to support its accounting of the profit sharing distribution to OceanInvest. Further, while the agreement in question was drafted prior to the POR, OceanInvest acknowledged that the agreement was not signed until the Department noted the absence of signatures on the copy of the agreement submitted for the record. *See* OceanInvest's December 18, 2007, supplemental questionnaire response.

OceanInvest reported a series of payments made to it by its customer during the POR, but was unable to demonstrate that these payments are tied to the terms of the agreement. The Department cannot determine that the amounts of the payments are consistent with the distribution method outlined in the agreement. OceanInvest acknowledges that it does not have the ability to examine the basis for the payment it received. Therefore, we find that OceanInvest has failed to demonstrate adequately that the post-sale bonus payments were made consistent with the terms indicated in the agreement. As a result, we have disallowed this adjustment to EP.

OceanInvest reported the demurrage expenses as a direct selling expense. We reclassified this item as a movement expense, consistent with our treatment of this item in the previous review. *See Certain Frozen Warmwater Shrimp from Ecuador: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 72 FR 10698,10702 (March 9, 2007) (*AR1 Preliminary Results*), unchanged in *Certain Frozen Warmwater Shrimp from Ecuador: Final Results of Antidumping Duty Administrative Review*, 72 FR 52070 (September 12, 2007) (*AR1 Final Results*).

B. Promarisco

We based EP on DDP prices to the first unaffiliated purchaser in the United States. We made deductions to the starting price for foreign inland freight expenses, ocean freight expenses, marine insurance expenses, U.S. customs duties (including merchandise processing and harbor maintenance fees), U.S. brokerage and handling expenses, and U.S. warehousing 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 was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared the volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise, in accordance with section 773(a)(1)(C) of the Act.

In the less-than-fair-value (LTFV) investigation segment of this proceeding, the Department determined that a particular market situation existed which rendered the Ecuadorian market inappropriate for purposes of determining NV for the three respondents in the LTFV investigation, including Promarisco. *See* Memorandum dated June 7, 2004, entitled ''Home Market as Appropriate Comparison Market,'' as included at Exhibit A–2 of Promarisco's August 24, 2007, response to section A of the questionnaire. Promarisco reported that the particular market situation still applies to its home market sales and there is no information on the record to suggest otherwise. Accordingly, although the aggregate volume of Promarisco's home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, because of the particular market situation, we could not rely on Promarisco's home market sales for determining NV. Therefore, we used Promarisco's sales to Spain, Promarisco's largest third country market, as the basis for comparison market sales. *See Promarisco Comparison Market Memo* for a more detailed discussion of this issue.

Furthermore, based on our analysis of OceanInvest's questionnaire responses, we determined that OceanInvest's aggregate volume of home market sales of the foreign like product was insufficient to permit a proper comparison with U.S. sales of the subject merchandise.[4] Therefore, with respect to OceanInvest, we used sales to Italy, which is OceanInvest's largest third country market, as the basis for comparison market sales in accordance with section 773(a)(1)(C) of the Act and 19 CFR 351.404.

B. Level of Trade

Section 773(a)(1)(B)(i) of the Act states that, to the extent practicable, the Department will calculate NV based on sales at the same level of trade (LOT) as the EP or CEP. Sales are made at different LOTs if they are made at different marketing stages (or their equivalent). *See* 19 CFR 351.412(c)(2). Substantial differences in selling activities are a necessary, but not sufficient, condition for determining that there is a difference in the stages of marketing. *See id; see also Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate From South Africa*, 62 FR 61731, 61732 (November 19, 1997) (*Plate from South Africa*). In order to determine whether the comparison sales were at different stages in the marketing process than the U.S. sales, we reviewed the distribution system in each market (*i.e.*, the chain of distribution), including selling functions, class of customer (customer category), and the level of selling expenses for each type of sale.

Pursuant to section 773(a)(1)(B)(i) of the Act, in identifying LOTs for EP and comparison market sales (*i.e.*, NV based on either home market or third country prices),[5] we consider the starting prices before any adjustments. For CEP sales, we consider only the selling activities reflected in the price after the deduction of expenses and profit under section 772(d) of the Act. *See Micron Technology, Inc.* v. *United States*, 243 F. 3d 1301, 1314 (Fed. Cir. 2001).

When the Department is unable to match U.S. sales of the foreign like product in the comparison market at the same LOT as the EP or CEP, the Department may compare the U.S. sale to sales at a different LOT in the comparison market. In comparing EP or

[4] Because OceanInvest's sales in the home market did not meet the viability threshold, it was unnecessary to address whether a particular market situation existed with respect to such sales.

[5] Where NV is based on constructed value (CV), we determine the NV LOT based on the LOT of the sales from which we derive selling expenses, general and administrative (SG&A) expenses, and profit for CV, where possible.

CEP sales at a different LOT in the comparison market, where available data make it practicable, we make an LOT adjustment under section 773(a)(7)(A) of the Act. Finally, for CEP sales only, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in LOTs between NV and CEP affects price comparability (*i.e.*, no LOT adjustment was practicable), the Department shall grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Plate from South Africa*, 62 FR at 61732–33.

In this administrative review, we obtained information from each respondent regarding the marketing stages involved in making the reported foreign market and U.S. sales, including a description of the selling activities performed by each respondent for each channel of distribution. Company-specific LOT findings are summarized below.

1. OceanInvest

OceanInvest sold frozen warmwater shrimp to distributors and traders in the U.S. market, and distributors in the Italian market. OceanInvest reported that it made EP sales in the U.S. market through two channels of distribution: FOB sales and DDP sales. We examined the selling activities performed for these channels, and found that OceanInvest performed the following selling functions for both channels: Packing, order input/processing, direct sales personnel services, and claim services (*i.e.*, billing adjustments). In addition, for DDP sales, OceanInvest made freight and delivery arrangements. These selling activities can be generally grouped into two core selling function categories for analysis: 1) sales and marketing (*e.g.*, order input/processing, direct sales personnel services, claim services); and 2) freight and delivery. Accordingly, based on the core selling functions, we find that OceanInvest performed sales and marketing for all U.S. sales, and freight and delivery services as well for certain U.S. sales. We do not find that the provision of freight and delivery services for one channel of distribution is sufficient to distinguish it as a separate LOT. Accordingly, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the Italian market, OceanInvest reported that it made FOB sales through one channel of distribution. We examined the selling activities performed for this channel, and found that OceanInvest performed the following selling functions: Packing, order input/processing, direct sales personnel services, payment of commissions, and claim services (*i.e.*, billing adjustments). These selling activities can be generally grouped into one core selling function for analysis: Sales and marketing. Accordingly, we find that OceanInvest performed the core selling function of sales and marketing for all customers in the Italian market. Because all sales in the Italian market are made through a single distribution channel, we preliminarily determine that there is one LOT in the Italian market.

Finally, we compared the EP LOT to the comparison market LOT and found that, with the exception of freight and delivery services performed on some U.S. sales, and the payment of commissions on Italian sales, the core selling functions performed for U.S. and Italian market customers are virtually identical. Therefore, we determined that sales to the U.S. and Italian markets during the POR were made at the same LOT, and as a result, no LOT adjustment was warranted.

2. Promarisco

Promarisco made direct sales of frozen warmwater shrimp to retailers, food processors, restaurant chains, and distributors in the U.S. market, and food processors and distributors in the Spanish market. Promarisco reported that it made EP sales in the U.S. market on a DDP basis through one channel of distribution. We examined the selling activities performed for this channel, and found that Promarisco performed the following selling functions: Sales forecasting, sales promotion, order input/processing, payment of commissions, freight and delivery, and claim services. These selling activities can be generally grouped into two core selling function categories for analysis: (1) Sales and marketing (*e.g.*, order input/processing, sales promotion, claim services); and (2) freight and delivery. Accordingly, we find that Promarisco performed the core selling functions of sales and marketing, and freight and delivery for all customers in the U.S. market. Because all sales in the U.S. market are made through a single distribution channel, we preliminarily determine that there is one LOT in the U.S. market.

With respect to the Spanish market, Promarisco reported that it made sales on an FOB, CIF, or CFR basis through one channel of distribution. We examined the selling activities performed for this channel, and found that Promarisco performed the following selling functions: Sales forecasting, sales promotion, order input/processing, payment of commissions, freight and delivery, and claim services. These selling activities can be generally grouped into two core selling function categories for analysis: (1) Sales and marketing (*e.g.*, order input/processing, sales promotion, claim services); and (2) freight and delivery. Accordingly, based on the core selling functions, we find that Promarisco performed sales and marketing for all Spanish sales, and freight and delivery services for certain Spanish sales. We do not find that the provision of freight and delivery services for some sales is sufficient to distinguish it as a separate LOT. Accordingly, we preliminarily determine that there is one LOT in the Spanish market.

Finally, we compared the EP LOT to the comparison market LOT and found that the core selling functions performed for U.S. and Spanish market customers are virtually identical. Therefore, we determined that sales to the U.S. and Spanish markets during the POR were made at the same LOT, and as a result, no LOT adjustment was warranted.

C. Cost of Production Analysis

Based on our analysis of the petitioner's allegation, we found that there were reasonable grounds to believe or suspect that OceanInvest's sales of frozen warmwater shrimp in the third-country market were made at prices below their cost of production (COP). Accordingly, pursuant to section 773(b) of the Act, we initiated a sales-below-cost investigation to determine whether OceanInvest's sales were made at prices below their respective COPs. *See OceanInvest COP Initiation Memo.*

In the LTFV investigation, the most recently completed segment of this proceeding as of April 6, 2007, the publication date of the initiation of this review, we found that Promarisco had made sales below the COP. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Frozen and Canned Warmwater Shrimp From Ecuador*, 69 FR 47091 (August 4, 2004); unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp From Ecuador*, 69 FR 76913 (December 23, 2004), and *LTFV Amended Final Determination and Order*. Thus, in accordance with section 773(b)(2)(A)(ii) of the Act, there are reasonable grounds to believe or suspect that Promarisco made sales in the third-country market at prices below the cost of producing the merchandise in the current review period. Accordingly, we instructed Promarisco

to respond to section D (Cost of Production) of the questionnaire.

Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated each respondent's COP based on the sum of its costs of materials and conversion for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses (*see* ''Test of Comparison Market Sales Prices'' section below for treatment of third-country selling expenses).

The Department relied on the COP data submitted by each respondent in its most recent supplemental response to section D of the questionnaire for the COP calculation, except for the following instances where the information was not appropriately quantified or valued.

a. OceanInvest

We relied upon the COP data submitted by OceanInvest, including a correction to the raw material cost for one product that OceanInvest reported in its February 11, 2008, response. We recalculated the G&A and financial expenses reported for this product based on the revised total cost of manufacturing for this product. *See* Memorandum to Neal M. Halper, Director, Office of Accounting, from Gina K. Lee, Senior Accountant, entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—OceanInvest S.A.,'' dated February 28, 2008.

b. Promarisco

We relied upon the COP data submitted by Promarisco with the exception of the financial expense ratio. We have recalculated Promarisco's financial expense ratio to exclude a certain interest income offset that was generated from assets classified as long-term assets. *See* Memorandum to Neal M. Halper, Director, Office of Accounting, from Christopher J. Zimpo, Accountant, entitled ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results—Promarisco, S.A.,'' dated February 28, 2008.

Test of Comparison Market Sales Prices

On a product-specific basis, we compared the adjusted weighted-average COP to the third-country 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 COP exclusive of selling and packing expenses. The prices (inclusive of billing adjustments, where appropriate) were exclusive of any applicable movement charges, and direct and indirect selling expenses and packing expenses, revised where appropriate, as discussed below under the ''Price-to-Price Comparisons'' section.

Results of the COP Test

In determining whether to disregard third-country sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act: (1) Whether, within an extended period of time, such sales were made in substantial quantities; and (2) whether such sales were made at prices which permitted the recovery of all costs within a reasonable period of time in the normal course of trade. Where less than 20 percent of the respondent's third-country sales of a given product are at prices less than the COP, we do not disregard any below-cost sales of that product because we determine that in such instances the below-cost sales were not made within an extended period of time and in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product are at prices less than the COP, we disregard 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.

We found that, for certain specific products, more than 20 percent of OceanInvest's and Promarisco's third-country 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.

For those U.S. sales of subject merchandise for which there were no usable third-country sales in the ordinary course of trade, we compared EPs to the CV in accordance with section 773(a)(4) of the Act. *See* ''Calculation of Normal Value Based on Constructed Value'' section below.

D. Calculation of Normal Value Based on Comparison Market Prices

1. OceanInvest

We based NV for OceanInvest on FOB prices to unaffiliated customers in Italy. We made adjustments, where appropriate, to the starting price for billing adjustments. We made deductions, where appropriate, from the starting price for foreign inland freight and Ecuadorian brokerage and handling expenses, under section 773(a)(6)(B)(ii) of the Act.

We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, we made adjustments under section 773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in circumstances of sale (COS) for imputed credit expenses, bank fees, inspection fees, bill-of-lading document fees, and international courier fees. We also made adjustments in accordance with 19 CFR 351.410(e) for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not the other. Specifically, as commissions were granted in the Italian market but not in the U.S. market, we deducted commissions paid in the Italian market from the starting price, and made an upward adjustment to NV for the lesser of (1) the amount of commission paid in the Italian market, or (2) the amount of indirect selling expenses incurred in the U.S. market.

We also deducted comparison market packing costs and added U.S. packing costs, in accordance with sections 773(a)(6)(A) and (B) of the Act.

OceanInvest reported certain ancillary freight-related expenses related to Italian sales, such as anti-narcotic inspection fees and bill-of-lading document fees, under the international freight expense variable in the third-country sales listing. We reclassified these expenses as selling expenses, consistent with our treatment of these expenses in *AR1 Preliminary Results*, 72 FR at 10704, unchanged in *AR1 Final Results*.

2. Promarisco

We calculated NV based on CIF, CFR or FOB prices to unaffiliated customers in the Spanish market. We made deductions from the starting price for movement expenses, including inland freight, marine insurance, and international freight, under section 773(a)(6)(B)(ii) of the Act.

We made adjustments for differences in costs attributable to differences in the physical characteristics of the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411. In addition, we made adjustments under section

773(a)(6)(C)(iii) of the Act and 19 CFR 351.410 for differences in COS for imputed credit expenses. We also made adjustments in accordance with 19 CFR 351.410(e) for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not the other. Specifically, as commissions were granted in the Spanish market but not in the U.S. market, we deducted commissions paid in the Spanish market from the starting price, and made an upward adjustment to NV for the lesser of (1) the amount of commission paid in the Spanish market, or (2) the amount of indirect selling expenses incurred in the U.S. market. We also deducted comparison market packing costs and added U.S. packing costs, in accordance with section 773(a)(6)(A) and (B) of the Act.

F. 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 CV. Accordingly, for those frozen warmwater shrimp products for which we could not determine the NV based on comparison market sales because there were no usable sales of a comparable product, we based NV on 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. For each respondent, we calculated the cost of materials and fabrication based on the methodology described in the ''Cost of Production Analysis'' section, above. We based SG&A and profit for each respondent on the actual amounts incurred and realized by the respondents 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 comparison market sales from, and adding U.S. direct selling expenses to, CV.

Currency Conversion

We did not make any currency conversions pursuant to section 773A of the Act and 19 CFR 351.415 because all sales and cost data for both respondents were reported in U.S. dollars.

Preliminary Results of the Review

We preliminarily determine that weighted-average dumping margins exist for the respondents for the period February 1, 2006, through January 31, 2007, as follows:

Manufacturer/exporter	Percent margin
OceanInvest, S.A	0.64
Promarisco, S.A	0.46 (*de minimis*)
Review-Specific Average Rate Applicable to the Following Companies there:&thnsp;[6]	
Agrol, S.A	0.64
Alquimia Marina S.A	0.64
Comar Cia Ltda	0.64
Dunci S.A	0.64
El Rosario S.A	0.64
Empacadora Bilbo Bilbosa	0.64
Empacadora Del Pacifico S.A.	0.64
Empacadora Dufer Cia. Ltda.	0.64
Empacadora Gran Mar S.A (Empagran).	0.64
Empacadora Nacional	0.64
Empacadora y Exportadora Calvi Cia. Ltda.	0.64
Emprede	0.64
Estar C.A	0.64
Exporklore, S.A	0.64
Exportadora Del Oceano Oceanexa C.A.	0.64
Gondi S.A	0.64
Industria Pesquera Santa Priscila S.A.	0.64
Inepexa S.A	0.64
Jorge Luis Benitez Lopez	0.64
Karpicorp S.A	0.64
Luis Loaiza Alvarez	0.64
Mardex Cia. Ltda	0.64
Mariscos del Ecuador c. l. Marecuador.	0.64
Marines C.A	0.64
Natural Select S.A	0.64
Negocios Industriales	0.64
Novapesca S.A	0.64
Oceanmundo S.A	0.64
Oceanpro	0.64
Operadora y Procesadora de Productos Marinos S.A (Omarsa).	0.64
Oyerly S.A	0.64
Pacfish S.A	0.64
PCC Congelados & Frescos S.A.	0.64
Pescazul S.A	0.64
Peslasa S.A	0.64
Phillips Seafood	0.64
Procesadora del Rio Proriosa S.A.	0.64
Promarosa Productos	0.64
Sociedad Nacional de Galapagos C.A (SONGA).	0.64
Tolyp S.A	0.64
Transcity S.A	0.64

[6] 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.

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). Interested parties may submit case briefs not later than 30 days after the date of publication of this notice. *See* 19 CFR 351.309(c)(1)(ii). 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. *See* 19 CFR 351.309(d)(1). 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 1117, 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 this 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 Rates

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.

Regarding OceanInvest, for those sales where it reported the entered value of its U.S. sales, we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. For those sales where OceanInvest did not report the

entered value of its U.S. sales, we will calculate customer-specific per-unit duty assessment rates by aggregating the total amount of antidumping duties calculated for the examined sales and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we will calculate importer-specific or customer-specific *ad valorem* ratios based on the estimated entered value.

Regarding Promarisco, because it reported the entered value of all of its U.S. sales, we will calculate an importer-specific *ad valorem* duty assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of the examined sales for that importer. We will calculate a single importer-specific assessment rate for Promarisco, consistent with our practice in *AR1 Final Results. See also Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and Singapore: Final Results of the Antidumping Administrative Reviews, Rescission of Administrative Review in part, and Determination Not to Revoke Order in Part,* 68 FR 35623 (June 16, 2003), and accompanying Issues and Decision Memorandum at Comment 9B; and *Notice of Final Results of Antidumping Duty Administrative Review and Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Softwood Lumber Products From Canada,* 69 FR 75921 (December 20, 2004), and accompanying Issues and Decision Memorandum at Comment 13.

For the responsive companies which were not selected for individual review, we will calculate an assessment rate based on the weighted average of the margin 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 this review if any importer-specific or customer-specific assessment rate calculated in the final results of this review 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). 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.

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003) (*Assessment Policy Notice*). This clarification will apply to entries of subject merchandise during the POR produced by companies included in these final results of review for which the reviewed companies did not know that the merchandise they sold to the intermediary (*e.g.*, a reseller, trading company, or exporter) was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all-others rate if there is no rate for the intermediary involved in the transaction. *See Assessment Policy Notice* for a full discussion of this clarification.

Discontinuation of Cash Deposit Requirements

On August 15, 2007, in accordance with sections 129(b)(4) and 129(c)(1)(B) of the Uruguay Round Agreements Act (URAA), the U.S. Trade Representative, after consulting with the Department and Congress, directed the Department to implement its determination to revoke the antidumping duty order on certain frozen warmwater shrimp from Ecuador. *See Final Results of the section 129 Determination of Certain Frozen Warmwater Shrimp from Ecuador,* 72 FR 48257 (August 23, 2007). Accordingly, the antidumping duty order on certain frozen warmwater shrimp from Ecuador was revoked effective August 15, 2007. As a result, we have instructed CBP to discontinue collection of cash deposits of antidumping duties on entries of the subject merchandise.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: February 28, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–4424 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–896]

Magnesium Metal From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review

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

SUMMARY: In response to timely request from Tianjin Magnesium International Co., Ltd. (TMI) the Department of Commerce (the Department) is conducting the 2006–2007 administrative review of the antidumping duty order on magnesium metal from the People's Republic of China (PRC). The Department has reviewed shipments of subject merchandise made by TMI and has determined that TMI made sales below normal value (NV) during the period of review (POR). If the preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on entries of subject merchandise during the POR for which the importer-specific assessment rates are above *de minimis*. 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.

DATES: *Effective Date:* March 6, 2008.

FOR FURTHER INFORMATION CONTACT: Karine Gziryan, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4081.

SUPPLEMENTARY INFORMATION:

Background

On April 15, 2005, the Department published an antidumping duty order on magnesium metal from the PRC. *See Notice of Antidumping Duty Order: Magnesium Metal From the People's Republic of China,* 70 FR 19928 (April 15, 2005). On April 2, 2007, the Department published a notice of opportunity to request an administrative review of the above-referenced order.

See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review, 72 FR 15650 (April 2, 2007). Based on timely request for an administrative review, the Department initiated an administrative review of the antidumping duty order on magnesium metal from the PRC with respect to TMI. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 72 FR 29968 (May 30, 2007).

On May 25, 2007, the Department issued a separate rate certification and the full antidumping duty questionnaire to TMI. We received timely separate rate certification and questionnaire responses from TMI. On August 2, 2007, we received the Petitioner's comments on TMI's sections A, C, and D questionnaire responses. We issued supplemental questionnaires to TMI in August and September 2007, and January 2008. We received timely responses from TMI to these questionnaires on August 31, 2007, October 22, 2007, November 29, 2007, and February 8, 2008, respectively.

On August 22, 2007, the Department determined that India, Sri Lanka, Egypt, Indonesia, and Philippines are countries comparable to the PRC in terms of economic development. *See* Memorandum from Ron Lorentzen, Acting Director, Office of Policy to Mark Manning, Program Manager, Operations, NME unit, Office 4, ''Antidumping Duty Administrative Review of Magnesium Metal From the PRC: Request for a List of Surrogate Countries,'' dated August 22, 2007 (Office of Policy Surrogate Countries Memorandum). On September 6, 2007, the Petitioner requested that the Department conduct verification of the questionnaire responses submitted by respondent TMI in this administrative review.

On September 7, 2007, the Department provided parties with an opportunity to submit publicly available information on surrogate countries and values for consideration in the preliminary results of review. On September 21, 2007, and September 28, 2007, we received comments from TMI and the Petitioner, respectively, in which they requested that the Department select India as the appropriate surrogate country in this review. In their comments, both TMI and the Petitioner argued that India (a) is at a comparable level of economic development with the PRC based on the gross national income (GNI); (b) is a significant producer of comparable merchandise, namely aluminum; and (c) the data necessary to calculate a dumping margin for a Chinese producer of magnesium metal are readily available in India. On October 5, 2007, we received surrogate value information from the Petitioner and TMI. On October 15, 2007, and November 5, 2007, we received comments from the Petitioner rebutting certain surrogate value information submitted by TMI. On October 23, 2007, TMI submitted comments rebutting the Petitioner's surrogate value information. On February 12, 2008, the Petitioner submitted a request to assign a combination cash deposit rate to TMI and its supplier of subject merchandise in this administrative review.

On December 12, 2007, the Department extended the deadline for the preliminary results of administrative review until February 29, 2008. *See Magnesium Metal from the People's Republic of China: Notice of Extension of Time Limit for the Preliminary Results of the 2006–2007 Antidumping Duty Administrative Review,* 72 FR 70567 (December 12, 2007).

Period of Review

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

Scope of Order

The product covered by this antidumping duty order is magnesium metal, which includes primary and secondary 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 this antidumping duty order includes blends of primary and secondary magnesium.

The subject merchandise includes the following alloy magnesium metal products made from primary and/or secondary magnesium including, without limitation, magnesium cast into ingots, slabs, rounds, billets, and other shapes, magnesium ground, chipped, crushed, or machined into raspings, granules, turnings, chips, powder, briquettes, and other shapes: products that contain 50 percent or greater, but less than 99.8 percent, magnesium, by weight, and that have been entered into the United States as conforming to an ''ASTM Specification for Magnesium Alloy'' [1] and thus are outside the scope of the existing antidumping orders on magnesium from the PRC (generally referred to as ''alloy'' magnesium).

The scope of the antidumping duty order excludes the following merchandise: (1) All forms of pure magnesium, including chemical combinations of magnesium and other material(s) in which the pure magnesium content is 50 percent or greater, but less than 99.8 percent, by weight, that do not conform to an ''ASTM Specification for Magnesium Alloy''; [2] (2) magnesium that is in liquid or molten form; and (3) 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 (Al_2O_3), calcium aluminate, soda ash, hydrocarbons, graphite, coke, silicon, rare earth metals/mischmetal, cryolite, silica/fly ash, magnesium oxide, periclase, ferroalloys, dolomite lime, and colemanite.[3]

The merchandise subject to this antidumping duty order is currently classifiable under items 8104.19.00 and 8104.30.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS items are provided for convenience and customs purposes, the written description of the merchandise under investigation is dispositive.

Non-Market-Economy (NME) Treatment

The Department considers the PRC to be an NME country. In accordance with section 771(18)(C)(i) of the Tariff Act of 1930, as amended (the Act), any

[1] The meaning of this term is the same as that used by the American Society for Testing and Materials in its *Annual Book of ASTM Standards: Volume 01.02 Aluminum and Magnesium Alloys.*

[2] This material is already covered by existing antidumping orders. *See Antidumping Duty Orders: Pure Magnesium from the People's Republic of China, the Russian Federation and Ukraine; Amended Final Determination of Sales at Less Than Fair Value: Antidumping Duty Investigation of Pure Magnesium from the Russian Federation,* 60 FR 25691 (May 12, 1995), and *Antidumping Duty Order: Pure Magnesium in Granular Form from the People's Republic of China,* 66 FR 57936 (November 19, 2001).

[3] This third exclusion for magnesium-based reagent mixtures is based on the exclusion for reagent mixtures in the 2000–2001 investigations of magnesium from the PRC, Israel, and Russia. *See 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); *Final Determination of Sales at Less Than Fair Value: Pure Magnesium From Israel,* 66 FR 49349 (September 27, 2001); *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.

determination that a country is an NME country shall remain in effect until revoked by the administering authority. *See Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, (TRBs) From the People's Republic of China: Preliminary Results of 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 7500 (February 14, 2003), (unchanged in *TRBs from the People's Republic of China: Final Results of 2001–2002 Administrative Review and Partial Rescission of Review,* 68 FR 70488 (December 18, 2003)). None of the parties to this proceeding has contested such treatment. Therefore, for the preliminary results of review, we have treated the PRC as an NME country and applied our current NME methodology in accordance with section 773(c) of the Act.

Selection of a Surrogate Country

When the Department analyzes imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (FOPs), 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 FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) At a level of economic development comparable to that of the NME country; and (2) significant producers of merchandise comparable to the subject merchandise.

The Department has determined that India, Sri Lanka, Egypt, Indonesia, and the Philippines are countries that are at a level of economic development comparable to that of the PRC. *See* Office of Policy Surrogate Countries Memorandum. While none of these countries are significant producers of magnesium metal,[4] India does have significant production of aluminum that is comparable to the production of magnesium metal with respect to factory overhead; selling, general, and administrative (SG&A) expenses; and profit. *See* Surrogate Country Memorandum at 5–6. Because India is at a comparable level of economic development, is a significant producer of comparable merchandise, and provides the best opportunity to use publicly available data to value the factors of production, the Department preliminarily determined that India is an appropriate surrogate country for the purposes of this administrative review. *See* Surrogate Country Memorandum at 7. The sources of the surrogate factor values are discussed under the ''Normal Value'' section below and in the Memorandum from Karine Gziryan, Senior Financial Analyst, through Mark Manning, Program Manager, to the File, ''Surrogate Values for the Preliminary Results,'' dated February 29, 2008 (Surrogate Values Memorandum).

Separate Rate

A designation of a country as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. Accordingly, the Department has a rebuttable presumption that all companies within an NME country are subject to government control and thus should be assessed a single antidumping duty rate. It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. *See Notice of Final Determination of Sales at Less Than Fair Value: Bicycles From the People's Republic of China,* 61 FR 19026, 19027 (April 30, 1996). 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 entity exporting the subject merchandise under a test arising from the *Notice of Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588, at Comment 1 (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*).

The Department's separate-rate test determines whether the exporters are independent from government control and does not consider, in general, 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, 61757–61758 (November 19, 1997), and *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, From the People's Republic of China; Final Results of Antidumping Administrative Review,* 62 FR 61276, 61279 (November 17, 1997).

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 TMI supports a preliminary finding of *de jure* absence of governmental control based on the following: (1) An absence of restrictive stipulations associated with TMI's business and export licenses; (2) the existence of applicable legislative enactments decentralizing control of the companies; and (3) the formal measures by the government decentralizing control of companies. In its responses, TMI stated that it is an independent legal entity and provided a copy of its business license that allows it to engage in the exportation of magnesium metal. TMI also reported that no export quotas apply to magnesium metal. The following laws, which were placed on the record of this review, also indicate a lack of *de jure* government control. The *Company Law of the People's Republic of China,* made effective on July 1, 1994, states that a company is an enterprise legal person, that shareholders shall assume liability towards the company to the extent of its shareholdings, and that the company shall be liable for its debts to the extent of all its assets. TMI also provided copies of the *Foreign Trade Law* of the PRC, which identifies the rights and responsibilities of organizations engaged in foreign trade, grants autonomy to foreign-trade operators in management decisions, and establishes the foreign trade operator's accountability for profits and losses. Based on our analysis of the foregoing, the Department has preliminarily determined that there is an absence of *de jure* governmental control over the export activities of TMI.

[4] *See* Memorandum to Abdelali Elouaradia, Office Director, AD/CVD Operations, Office 4, through Mark Manning, Program Manager, AD/CVD Operations, Office 4, from Karine Gziryan, Financial Analyst, AD/CVD Operations, Office 4, ''Administrative Review of Magnesium Metal from the People's Republic of China: Selection of a Surrogate Country dated October 30, 2007,'' (Surrogate Country Memorandum).

Absence of De Facto Control

Typically the Department considers four factors in evaluating whether a 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, 22545 (May 8, 1995). The Department considers an analysis of *de facto* control to be critical in determining whether a respondent is, in fact, subject to a degree of governmental control that would preclude the Department from assigning the respondent a separate rate.

TMI has asserted that it: (1) Establishes its own export prices; (2) negotiates contracts without guidance from any governmental entities or organizations; (3) makes its own personnel decisions; (4) retains the proceeds of its export sales and uses profits according to its business needs; and (5) has the authority to sell its assets and to obtain loans. The Department has analyzed the information placed on the record by TMI. Based upon its analysis, the Department has preliminarily determined that the information on the record supports TMI's assertion, and that there is an absence of *de facto* governmental control over the export activities of TMI. Because the Department has found that TMI operates free of *de jure* and *de facto* governmental control, it has preliminarily determined that TMI has met the criteria for receiving a separate rate.

Normal Value Comparisons

To determine whether TMI's sales of the subject merchandise to the United States were made at a price below NV, we compared its U.S. price to NV, as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice.

United States Price

A. Export Price

In accordance with section 772(a) of the Act, we based TMI's U.S. price on export price (EP) because the first sales to unaffiliated purchasers were made prior to importation, and constructed export price was not otherwise warranted by the facts on the record. We calculated EP for TMI based on the prices to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, we calculated EP by deducting, where applicable, the following expenses from the starting price (gross unit price) charged to the first unaffiliated customer in the United States: foreign inland freight from the plant to the port of exportation, foreign brokerage and handling, international freight, marine insurance, U.S. brokerage and handling, U.S. customs duties, and inland freight incurred in the United States. *See* Memorandum from Karine Gziryan, Senior Financial Analyst, to the File, ''Analysis for the Preliminary Results of the 2006–2007 Administrative Review of Magnesium Metal from the People's Republic of China: Tianjin Magnesium International Ltd.,'' dated February 29, 2008 (Preliminary Analysis Memorandum).

B. Surrogate Values for Expenses Incurred in the PRC for U.S. Sales

TMI reported that, for its U.S. sales, foreign inland freight, foreign brokerage and handling, and marine insurance were provided by NME vendors or paid for using an NME currency. We based the deduction of these charges on surrogate values. To value foreign inland freight and foreign brokerage and handling, we applied the same surrogate values used to value these expenses in NV. *See* Normal Value section below and Surrogate Values Memorandum. We valued marine insurance with a price quote from the website of RJG Consultants, a market-economy provider of marine insurance. *See* Surrogate Values Memorandum.

For international freight, U.S. brokerage and handling, and U.S. customs duties, TMI reported using market economy vendors and stated that these expenses were paid for in a market economy currency. Where movement services were provided by a market economy vendor and paid for in a market economy currency, we deducted the actual cost per metric ton of the expense. *See* Surrogate Values Memorandum.

Normal Value

A. Methodology

Section 773(c)(1)(B) of the Act provides that the Department shall determine NV using an FOP methodology if the merchandise is exported from an NME country and the available 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 and 19 CFR 351.408. The Department uses an FOP methodology because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under its normal methodologies. *See Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39744 (July 11, 2005) (unchanged in *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003–2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006).

We calculated NV by adding together the value of the FOPs, general expenses, profit, and packing costs.[5] Specifically, we valued material, labor, energy, and packing by multiplying the amount of the factor consumed in producing subject merchandise by the average unit surrogate value of the factor. In addition, we added freight costs to the surrogate costs that we calculated for material inputs. We calculated freight costs by multiplying surrogate freight rates by the shorter of the reported distance from the domestic supplier to the factory that produced the subject merchandise or the distance from the nearest seaport to the factory that produced the subject merchandise, as 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). We increased the calculated costs of the FOPs for surrogate general expenses and profit. *See* Surrogate Values Memorandum.

In accordance with 19 CFR 351.408(c)(1), when a producer sources an input from a market-economy country and pays for it in a market-economy currency, the Department will normally value the factor using the actual price paid for the input. *See* 19 CFR 351.408(c)(1); *see also Lasko Metal Products* v. *United States*, 43 F.3d 1442, 1445–1446 (Fed. Cir. 1994) (affirming the Department's use of market-based prices to value certain FOPs). Where a portion of the input is purchased from a market-economy supplier and the

[5] We based the values of the FOPs on surrogate values (*see* Selected Surrogate Values section below).

remainder from an NME supplier, the Department will normally use the price paid for the inputs sourced from market-economy suppliers to value all of the input, provided the volume of the market-economy inputs as a share of total purchases from all sources is ''meaningful.'' *See Antidumping Duties; Countervailing Duties; Final rule*, 62 FR 27296, 27366 (May 19, 1997); *Shakeproof* v. *United States*, 268 F.3d 1376, 1382 (Fed. Cir. 2001). *See also* 19 CFR 351.408(c)(1).

B. Selected Surrogate Values

In selecting surrogate values, we followed, to the extent practicable, the Department's practice of choosing public values which are non-export averages, representative of a range of prices in effect during the POR, or over a period as close as possible in time to the POR, 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). Where we could only obtain surrogate values that were not contemporaneous with the POR, we inflated (or deflated) the surrogate values using, where appropriate, the Indian Wholesale Price Index (WPI) as published in the *International Financial Statistics* of the International Monetary Fund. *See* Surrogate Values Memorandum.

In calculating surrogate values from import statistics, in accordance with the Department's practice, we disregarded statistics for imports from NME countries and countries deemed to maintain broadly available, non-industry-specific subsidies which may benefit all exporters to all export markets (*i.e.*, Indonesia, South Korea, and Thailand). *See, e.g., 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. *See also Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 68 FR 66800, 66808 (November 28, 2003), unchanged in *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). Additionally, we excluded from our calculations imports that were labeled as originating from an unspecified country because we could not determine whether they were from an NME country.

We used the following surrogate values in our preliminary results of review (*see* Surrogate Values Memorandum for details). Except as noted below, we valued raw materials and packing materials using April 2006 through March 2007 weighted-average Indian import values derived from the *World Trade Atlas*, online at *http://www.gtis.com/wta.htm* (WTA). The Indian import statistics that we obtained from the WTA were published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce of India and are contemporaneous with the POR.

We valued truck freight expenses using a per kilometer per kilogram average rate obtained from the Web site of an Indian transportation company, Infreight Technologies India Limited. *See http://www.infreight.com*. We used two sources to calculate the surrogate value for domestic brokerage and handling expenses. We valued TMI's use of foreign brokerage and handling using a simple average of the public version of the brokerage and handling expenses reported by Agro Dutch Industries Ltd., in an administrative review of preserved mushrooms from India, and by Kejriwal Paper Ltd., in an administrative review of certain lined paper products from India. *See* Agro Dutch Industries Ltd.'s section A–D submission, dated May 24, 2005, at Exhibit B–1 (*see Certain Preserved Mushrooms From India: Final Results of Antidumping Duty Administrative Review*, 71 FR 10646 (March 2, 2006)). *See the section C submission from Kejriwal Paper Ltd., dated January 9, 2006, at Exhibit C–2*, used in *Notice of Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances in Part: Certain Lined Paper Products From India*, 71 FR 19706 (April 17, 2006) (unchanged in *Notice of Final Determination of Sales at Less Than Fair Value, and Negative Determination of Critical Circumstances: Certain Lined Paper Products from India*, 71 FR 45012 (August 8, 2006)). Because these data were not contemporaneous to the POI, we adjusted them for inflation using the Indian WPI. *See* Surrogate Values Memorandum.

To value electricity, we used the 2000 electricity price data from International Energy Agency, Energy Prices and Taxes—Quarterly Statistics (First Quarter 2003), adjusted for inflation. *See* Surrogate Values Memorandum.

Consistent with 19 CFR 351.408(c)(3), we valued direct, indirect, and packing labor, using the most recently calculated regression-based wage rate, which relies on 2004 data. This wage rate can currently be found on the Department's Web site on Import Administration's home page, Import Library, Expected Wages of Selected NME Countries, revised in January 2007, available at *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, ILO, 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 TMI.

Lastly, we valued SG&A expenses, factory overhead costs, and profit using the 2006–2007 financial statements of two Indian producers of comparable merchandise, namely aluminum: Hindalco Industries Ltd., and National Aluminum Company Ltd. From this information, we were able to determine factory overhead as a percentage of the total raw materials, labor and energy (''ML&E'') costs; SG&A as a percentage of ML&E plus overhead (*i.e.*, cost of manufacture); and profit as a percentage of the cost of manufacture plus SG&A. *See* Surrogate Values Memorandum.

In accordance with 19 CFR 351.301(c)(3)(ii), interested parties may submit publicly available information with which to value FOPs in the final results of review within 20 days after the date of publication of the preliminary results of review.

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. These exchange rates can be accessed at the Web site of Import Administration at *http://ia.ita.doc.gov/exchange/index.html*.

Preliminary Results of Review

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

MAGNESIUM METAL FROM THE PRC

Company	Weighted-Average Margin (Percent)
Tianjin Magnesium International Co., Ltd.	17.46

Disclosure

The Department will disclose the calculations used in our analysis to parties to this administrative review within five days of the date of publication of this notice. Case briefs from interested parties may be submitted not later than 30 days of the date of publication of this notice, pursuant to 19 CFR 351.309(c). Rebuttal briefs, limited to issues raised in the case briefs, will be due five days later, pursuant to 19 CFR 351.309(d). Parties who submit case or rebuttal briefs in this proceeding are requested to submit with each argument (1) a statement of the issue and (2) a brief summary of the argument. The Department also requests that interested parties provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. The Department requests that parties submitting written comments also provide the Department with an additional copy of those comments on diskette.

Any interested party may request a hearing within 30 days of publication of this notice. *See* 19 CFR 351.310(c). Interested parties who wish to request a hearing or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration within 30 days of the date of publication of this notice. Requests should contain: (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 briefs.

The Department will issue the final results of this review, including the results of its analysis of issues raised in any such written briefs or at the hearing, if held, not later than 120 days after the date of publication of this notice.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of review. If the preliminary results are adopted in our final results of review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), we will calculate importer-specific *ad valorem* assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value of those sales. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if any importer-specific assessment rate calculated in the final results of this review is above *de minimis*.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(c) of the Act: (1) For the exporters listed above, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recently completed review; (3) for all PRC exporters of subject merchandise which have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 141.49 percent; and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporters that supplied that non-PRC exporter. These 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.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act, 19 CFR 351.213, and 19 CFR 351.221(b)(4).

Dated: February 29, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–4416 Filed 3–5–08; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

A–552–802

Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Preliminary Results, Preliminary Partial Rescission and Final Partial Rescission of the Second Administrative Review

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

SUMMARY: The Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam (''Vietnam''), covering the period of review (''POR'') of February 1, 2006, through January 31, 2007. As discussed below, we preliminarily determine that sales have not been made below normal value (''NV'') with respect to certain exporters who participated fully and are entitled to a separate rate in this administrative review. If these preliminary results are adopted in our final results of review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess antidumping duties on entries of subject merchandise during the POR for which the importer–specific assessment rates are above *de minimis*.

EFFECTIVE DATE: March 6, 2008.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik, 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) 482–6905.

SUPPLEMENTARY INFORMATION:

General Background

On February 1, 2005, the Department published in the **Federal Register** the antidumping duty order on frozen warmwater shrimp from Vietnam. *See*

Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam, 70 FR 5152 (February 1, 2005) (''VN Shrimp Order''). On February 2, 2007, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on frozen warmwater shrimp from Vietnam for the period February 1, 2006, through January 31, 2007. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 72 FR 5007 (February 2, 2007).

On February 28, 2007, we received requests to conduct administrative reviews of 92 companies from Petitioner,[1] 84 companies from the Louisiana Shrimp Association (''LSA''), and requests by certain Vietnamese companies.[2] *See Notice of Initiation of Administrative Reviews of the Antidumping Duty Orders on Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam and the People's Republic of China* 72 FR 17095 (April 6, 2007) (''*Initiation Notice*'').

On March 30, 2007, Petitioner withdrew its request for an administrative review with respect to 58 Vietnamese producers/exporters.[3] On April 6, 2007, the Department initiated an administrative review of 101 producers/exporters of subject merchandise from Vietnam.[4] *See Initiation Notice*. However, after accounting for duplicates, the number of companies upon which we initiated is actually 76 companies/groups.

Respondent Selection

On April 6, 2007, the Department sent a request for quantity and value (''Q&V'') information to all 76 companies/groups named in the *Initiation Notice*. Between April 16, 2007, and June 1, 2007, the Department received separate rate certifications from 47 companies/groups, Q&V questionnaire responses from 51 companies/groups, and separate rate applications from 2 companies/groups.

On May 2, May 7, May 22, and May 24, 2007, the Department issued follow–up letters to 44 companies/groups that did not submit either a separate rate certification or application, as appropriate, or a Q&V questionnaire response. On May 15 and May 21, 2007, the Department received responses from Viet Nhan and Bentre Aquaproduct Imports & Exports, respectively, indicating that they made no shipments of subject merchandise during the POR.

On June 6, 2007, the Department issued a letter to all interested parties inviting comments regarding the Department's respondent selection methodology for this proceeding. On June 13, 2007, Petitioner and counsel for a number of Vietnamese companies[5] (''Vietnam respondents'') provided comments on the Department's respondent selection methodology. On June 22, 2007, Petitioner provided additional comments with respect to the Department's respondent selection methodology. On June 26, 2007, Vietnam respondents filed comments rebutting Petitioner's June 22, 2007, supplemental comments.

On July 5, 2007, LSA filed a timely withdrawal of its review requests with respect to Aquatic Products Trading Company, Kien Giang Sea Products Import - Export Company aka Kisimex, Song Huong ASC Import–Export Company Ltd., and Viet Nhan Company. Additionally, on July 5, 2007, several Vietnamese companies collectively filed a request to extend the 90–day deadline to withdraw administrative review requests. The July 5, 2007, deadline to withdraw administrative review requests was extended to July 10, 2007. Consequently, of the 76 companies/group for which the Department initiated an administrative review, 72 companies/groups remained with active review requests. However, as noted above, the Department inadvertently included T.K. Co. in the *Initiation Notice* after Petitioner withdrew its request for review of T.K Co. Consequently, the Department is rescinding the review with respect to T.K. Co. *See* ''Final Partial Rescission of Administrative Review'' section below. Thus, 71 companies/groups remain with active review requests.

On July 18, 2007, the Department issued its respondent selection memorandum stating that we selected Camimex and Minh Phu Group[6] (''MPG'') as the two mandatory respondents (hereinafter ''respondents'') because they were the two largest exporters, by volume, of the remaining companies. *See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration, from James C. Doyle, Office Director, Office 9, Re: 2006/2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Selection of Respondents* (''*Respondent Selection Memo*''). Additionally, on July 18, 2007, the Department issued a memorandum discussing the proper treatment of the companies upon which we initiated a review, but were unresponsive to the Department's requests for Q&V information. *See Memorandum to Stephen J. Claeys, Deputy Assistant Secretary for Import Administration from James Doyle, Director, Office 9, Import Administration; Recommendation Memorandum Regarding Quantity and Value Questionnaire Responses and Lack Thereof: 2006/2007 Administrative Review on Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam* (''*Unresponsive Companies Memo*''), dated July 18, 2007. *See* the ''Vietnam–wide entity and Non–Responsive Companies'' section below for the Department's treatment of the non–responsive companies.

Questionnaires

On July 20, 2007, the Department issued its non–market economy questionnaire to the two selected respondents, Camimex and MPG.

Camimex and MPG responded to the Department's non–market economy questionnaire and subsequent supplemental questionnaires between August 2007 and January 2008. Additionally, between August and November 2007, Petitioner submitted

[1] The Ad Hoc Shrimp Trade Action Committee is the Petitioner.

[2] Certain companies were requested by both Petitioner and LSA, thus creating an overlap in the number of companies upon which an administrative review was requested.

[3] Additionally, on July 5, 2007, LSA filed a timely withdrawal of its review requests with respect to Aquatic Products Trading Company, Kien Giang Sea Products Import - Export Company, Kisimex, Song Huong ASC Import-Export Company Ltd., and Viet Nhan Company. These four companies were also included in Petitioner's March 30, 2007, withdrawal notice. As a result, no other active administrative requests remain on the record of this review for these four companies/groups.

[4] The Department inadvertently listed T.K. Co. as one of the initiated companies for review despite Petitioner's withdrawal of the sole review request for T.K. Co. Thus, although we stated 100 companies would be initiated for review, we actually initiated upon 101 individually named companies.

[5] The Vietnam respondents are: Seaprodex Minh Hai; Cuu Long Seapro; Minh Phu Seafood Export Import Corporation (and affiliated Minh Qui Seafood Co., Ltd. and Minh Phat Seafood Co., Ltd.); Minh Phu Seafood Corporation; Minh Phu Seafood Corp.; Minh Qui Seafood Co., Ltd.; Minh Qui Seafood; Minh Phat Seafood Co., Ltd.; Minh Phat Seafood.; Cofidec; Stapimex; Ngoc Sinh; Seaprimexco; Cafatex; Cadovimex; Vimex; Seaprodex Danang; Utxi; Nha Trang Seafoods; Nha Trang Fisco; Kisimex; Phu Cuong; Fimex; Incomfish; CP Livestock; Cataco; Thuan Phuoc; Grobest; Phuong Nam; Camimex; Minh Hai Jostoco; and Viet Foods.

[6] Minh Phu Group includes the following companies: Minh Phu Seafood Export Import Corporation (and affiliated Minh Qui Seafood Co., Ltd. and Minh Phat Seafood Co., Ltd.); Minh Phu Seafood Corporation; Minh Phu Seafood Corp.; Minh Qui Seafood Co., Ltd.; Minh Qui Seafood; Minh Phat Seafood Co., Ltd.; Minh Phat Seafood.

comments regarding Camimex's and MPG's questionnaire responses.

Extension of the Preliminary Results

On October 26, 2007, the Department extended the deadline for the preliminary results of the instant review until February 28, 2008. *See Certain Frozen Warmwater Shrimp From Brazil, Ecuador, India, Thailand, and the Socialist Republic of Vietnam: Notice of Extension of Time Limits for the Preliminary Results of the Second Administrative Reviews*, 72 FR 60800 (October 26, 2007).

Scope of the Order

The scope of this order includes certain frozen warmwater shrimp and prawns, whether wild–caught (ocean harvested) or farm–raised (produced by aquaculture), head–on or head–off, shell–on or peeled, tail–on or tail–off,[7] deveined or not deveined, cooked or raw, or otherwise processed in frozen form.

The frozen warmwater shrimp and prawn products included in the scope of this order, regardless of definitions in the Harmonized Tariff Schedule of the United States (HTSUS), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the Penaeidae family. Some examples of the farmed and wild–caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannemei*), banana prawn (*Penaeus merguiensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope of this order. In addition, food preparations, which are not ''prepared meals,'' that contain more than 20 percent by weight of shrimp or prawn are also included in the scope of this order.

[7] ''Tails'' in this context means the tail fan, which includes the telson and the uropods.

Excluded from the scope are: 1) breaded shrimp and prawns (HTS subheading 1605.20.10.20); 2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; 3) fresh shrimp and prawns whether shell–on or peeled (HTS subheadings 0306.23.00.20 and 0306.23.00.40); 4) shrimp and prawns in prepared meals (HTS subheading 1605.20.05.10); 5) dried shrimp and prawns; 6) canned warmwater shrimp and prawns (HTS subheading 1605.20.10.40); 7) certain dusted shrimp; and 8) certain battered shrimp. Dusted shrimp is a shrimp–based product: 1) that is produced from fresh (or thawed–from-frozen) and peeled shrimp; 2) to which a ''dusting'' layer of rice or wheat flour of at least 95 percent purity has been applied; 3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; 4) with the non–shrimp content of the end product constituting between four and 10 percent of the product's total weight after being dusted, but prior to being frozen; and 5) that is subjected to IQF freezing immediately after application of the dusting layer. Battered shrimp is a shrimp–based product that, when dusted in accordance with the definition of dusting above, is coated with a wet viscous layer containing egg and/or milk, and par–fried.

The products covered by this order are currently classified under the following HTSUS subheadings: 0306.13.00.03, 0306.13.00.06, 0306.13.00.09, 0306.13.00.12, 0306.13.00.15, 0306.13.00.18, 0306.13.00.21, 0306.13.00.24, 0306.13.00.27, 0306.13.00.40, 1605.20.10.10, and 1605.20.10.30. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope of this order is dispositive.

Preliminary Partial Rescission of Administrative Review

Bac Lieu Fisheries Company Limited (''Bac Lieu''), Khanh Loi Trading (''Khanh Loi''), Pataya Food Industry (Vietnam) Ltd. (''Pataya''), Seaprodex, Bentre Aquaproduct Imports & Exports (''Bentre''), Hanoi Seaproducts Import Export Corporation (''Seaprodex Hanoi''), and Cam Ranh Seafoods Processing Enterprise Company (''Camranh'') informed the Department that they did not export the subject merchandise to the United States during the POR. In our examination of CBP entry data, we did not find any information inconsistent with these statements. *See Memorandum to the File from Irene Gorelik, Analyst, Re: 2006/2007 Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: CBP Inquiry Regarding No Shipments*, dated February 28, 2008. Further, in response to our request for information relating to these claims, CBP did not provide any information that contradicted the respondents' claims. Therefore, because the record indicates that Bac Lieu, Khanh Loi, Pataya, Seaprodex, Bentre, Seaprodex Hanoi, and Camranh did not sell subject merchandise to the United States during the POR, we are preliminarily rescinding the instant administrative review with respect to Bac Lieu, Khanh Loi, Pataya, Seaprodex, Bentre, Seaprodex Hanoi, and Camranh. *See* 19 CFR 351.213(d)(3).

Final Partial Rescission of Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review if a party requesting a review withdraws the request within 90 days of the date of publication of the notice of initiation.[8] In accordance with 19 CFR 351.213(d)(1) and consistent with our practice, where the review requests were withdrawn within the 90–day time limit, we have rescinded the review because no other parties requested a review of these companies. Because both Petitioner and LSA withdrew their requests for a review of Aquatic Products Trading Company, Kien Giang Sea Products Import - Export Company, Kisimex, Song Huong ASC Import–Export Company Ltd., and Viet Nhan Company within 90 days of the date of publication of the notice of initiation and because no other interested party requested a review of these companies, we are rescinding the administrative review of Aquatic Products Trading Company, Kien Giang Sea Products Import - Export Company, Kisimex, Song Huong ASC Import–Export Company Ltd., and Viet Nhan Company. Additionally, as noted above, the Department inadvertently listed T.K. Co. as one of the initiated companies for

[8] As noted above, on March 30, 2007, Petitioner withdrew its request for an administrative review with respect to 58 producers/exporters including Aquatic Products Trading Company, Kien Giang Sea Products Import – Export Company, Kisimex, Song Huong ASC Import-Export Company Ltd., and Viet Nhan Company, in accordance with 19 CFR 351.213(d)(1). In addition, as noted above, pursuant to 19 CFR 351.213(d)(1), LSA withdrew its request for an administrative review of Aquatic Products Trading Company, Kien Giang Sea Products Import – Export Company, Kisimex, Song Huong ASC Import-Export Company Ltd., and Viet Nhan Company on July 5, 2007.

review, despite Petitioner's withdrawal of the sole review request for T.K. Co. Consequently, because Petitioner withdrew its request for a review of T.K. Co. within 90 days of the date of publication of the notice of initiation and because no other interested party requested a review of this company, we are rescinding the administrative review with respect to T.K. Co. Following the preliminary partial rescission and the final partial rescission totaling 12 companies/groups, the Department is left with 64 companies/groups with active review requests.

Duty Absorption

On April 13, 2007, Petitioner requested that the Department determine whether antidumping duties had been absorbed for U.S. sales of shrimp made during the POR by the respondents selected for review. Section 751(a)(4) of the Act of 1930, as amended (''the Act''), provides for the Department, if requested, to determine during an administrative review initiated two or four years after publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. In this case, only MPG sold subject merchandise in the United States through an affiliated importer. Because the antidumping duty order underlying this review was issued in 2005, and this review was initiated in 2007, we are conducting a duty absorption inquiry for this segment of the proceeding.

In determining whether the antidumping duties have been absorbed by the respondent, we presume the duties will be absorbed for those sales that have been made at less than NV. This presumption can be rebutted with evidence (*e.g.*, an agreement between the affiliated importer and unaffiliated purchaser) that the unaffiliated purchaser will pay the full duty ultimately assessed on the subject merchandise. *See*, *e.g.*, *Certain Stainless Steel Butt–Weld Pipe Fittings From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent to Rescind in Part*, 70 FR 39735, 39737 (July 11, 2005) (unchanged in final results). On August 23, 2007, the Department requested both MPG and Camimex to provide evidence to demonstrate that its unaffiliated U.S. purchasers will pay any antidumping duties ultimately assessed on entries of subject merchandise. On August 29, 2007, Camimex rebutted the presumption of duty absorption by stating that it is not affiliated with the importers of record for its U.S. sales during the POR. *See* Camimex's Response to Duty Absorption Inquiry dated August 29, 2007. Additionally, because Camimex reported sales of subject merchandise on an export price (''EP'') basis, the Department did not conduct a duty absorption investigation of Camimex's sales to the United States during the POR.

On August 29, 2007, MPG filed a response rebutting the duty–absorption presumption with company–specific quantitative evidence that its unaffiliated U.S. purchasers will pay the full duty ultimately assessed on the subject merchandise. The quantitative evidence included invoices and financial statements on the record showing that MPG did not absorb duties during the POR. We conclude that this information sufficiently demonstrates that the unaffiliated purchasers in the United States will ultimately pay the assessed duties. Therefore, we preliminarily find that antidumping duties have not been absorbed by MPG on U.S. sales made through its affiliated importer. *See* Minh Phu Group's Response to Duty Absorption Inquiry dated August 29, 2007; *see also* MPG's Section A questionnaire response dated August 20, 2007, at Exhibits 8 and 20.

Surrogate Country and Surrogate Values

On August 3, 2007, the Department sent interested parties a letter requesting comments on surrogate country selection and information pertaining to valuing factors of production. On September 7, 2007, Petitioner submitted a request to extend the deadline of October 5, 2007, for the submission of surrogate country and factor valuation comments. On September 17, 2007, the Department extended the deadline to submit surrogate country and factor valuation comments until October 26, 2007. Camimex, MPG and Petitioner submitted surrogate country comments and surrogate value data on October 26, 2007.

On January 10, 2008, Camimex and MPG filed comments opposing Petitioner's request for the Department to select India as the surrogate country in this proceeding rather than Bangladesh, which the Department selected as the surrogate country in the underlying investigation, first administrative review, and new shipper review. On January 23, 2008, Petitioner submitted further comments reiterating its argument for India to serve as the surrogate country in this proceeding. On February 8, 2008, Respondents submitted additional comments in rebuttal to Petitioner's January 23, 2008 comments. For a detailed account of the Respondents' and Petitioner's comments as well as the Department's surrogate country selection, please see the ''Surrogate Country'' section below.

Use of Facts Available

Section 776(a)(2) of the Act, provides that, if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested subject to sections 782(c)(1) and (e) of the Act; (C) significantly impedes a proceeding under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 782(c)(1) of the Act provides that if an interested party ''promptly after receiving a request from {the Department} for information, notifies {the Department} that such party is unable to submit the information requested in the requested form and manner, together with a full explanation and suggested alternative form in which such party is able to submit the information,'' the Department may modify the requirements to avoid imposing an unreasonable burden on that party.

Section 782(d) of the Act provides that, if the Department determines that a response to a request for information does not comply with the request, the Department will inform the person submitting the response of the nature of the deficiency and shall, to the extent practicable, provide that person the opportunity to remedy or explain the deficiency. If that person submits further information that continues to be unsatisfactory, or this information is not submitted within the applicable time limits, the Department may, subject to section 782(e), disregard all or part of the original and subsequent responses, as appropriate.

Section 782(e) of the Act states that the Department shall not decline to consider information deemed ''deficient'' under section 782(d) if: (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.

Furthermore, section 776(b) of the Act states that if the Department ''finds that an interested party has failed to cooperate by not acting to the best of its ability to comply with a request for information from the administering authority or the Commission, the administering authority or the Commission ..., in reaching the applicable determination under this title, may use an inference that is adverse to the interests of that party in selecting from among the facts otherwise available.'' *See also* Statement of Administrative Action (SAA) accompanying the Uruguay Round Agreements Act (URAA), H.R. Rep. No. 103–316, Vol. 1 at 870 (1994).

An adverse inference may include reliance on information derived from the Petition, the final determination in the investigation, any previous review, or any other information placed on the record. *See* section 776(b) of the Act.

Vietnam–wide Entity and Non–Responsive Companies

As mentioned above, based on withdrawals and subsequent rescissions, the administrative review covers 64 companies/groups. Of those 64 companies/groups, only two selected respondents, MPG and Camimex, and 27 separate rate companies/groups[9] chose to participate. The remaining 35[10] companies did not respond to the Department's Q&V and separate rate questionnaires, or the follow–up letters sent by the Department. As these 35 companies/groups did not provide the information necessary to conduct a separate rate analysis, we consider these companies as part of the Vietnam–wide entity. Furthermore, at no point in the administrative review did any of these companies submit comments regarding their status in this proceeding. The Department's numerous attempts to contact these companies are documented in the *Unresponsive Companies Memo* dated July 18, 2007. As such, we find it appropriate to apply facts available to the Vietnam–wide entity in accordance with sections 776(a)(2)(A) and (B) of the Act. Moreover, we find that because the Vietnam–wide entity did not respond to the Department's questionnaires and subsequent letters, it did not cooperate to the best of its ability and therefore, adverse facts available (''AFA'') is appropriate pursuant to section 776(b) of the Act. Therefore, we are applying an adverse inference to the Vietnam–wide entity (including the 35 non–responsive companies/groups) in accordance with section 776(b) of the Act.[11]

As AFA, we are applying the highest rate from any segment of this proceeding which in this case is the rate assigned to the Vietnam–wide entity in the LTFV investigation. Section 776(c) of the Act requires that the Department corroborate, to the extent practicable, secondary information used as facts available. Secondary information is defined as ''information derived from the petition that gave rise to the investigation or review, the final determination concerning the subject merchandise, or any previous review under section 751 concerning the subject merchandise.'' *See* SAA at 870 and 19 CFR 351.308(d).

The SAA further provides that the term ''corroborate'' means that the Department will satisfy itself that the secondary information to be used has probative value. *See* SAA at 870. Thus, to corroborate secondary information, the Department will, to the extent practicable, examine the reliability and relevance of the information used. The AFA rate we are applying for the current review of frozen warmwater shrimp was corroborated in the investigation. *See VN Shrimp Order*, 70 FR 5152 (February 1, 2005). No information has been presented in the current review that calls into question the reliability of the information used for this AFA rate. Thus, the Department finds that the information is reliable.

With respect to the relevance aspect of corroboration, the Department will consider information reasonably at its disposal to determine whether a margin continues to have relevance. Where circumstances indicate that the selected margin is not appropriate as AFA, the Department will disregard the margin and determine an appropriate margin. For example, in *Fresh Cut Flowers from Mexico: Final Results of Antidumping Administrative Review*, 61 FR 6812 (February 22, 1996), the Department disregarded the highest margin in that case as adverse best information available (the predecessor to facts available) because the margin was based on another company's uncharacteristic business expense resulting in an unusually high margin. Similarly, the Department does not apply a margin

[9] These companies were: Amanda Foods (Vietnam) Ltd.; C.P. Vietnam Livestock Co. Ltd.; Ca Mau Seafood Joint Stock Company (''SEAPRIMEXCO''); Cadovimex Seafood Import-Export and Processing Joint Stock Company (''CADOVIMEX''); Cai Doi Vam Seafood Import-Export Company (Cadovimex); Cafatex Fishery Joint Stock Corporation (''Cafatex Corp.''); Cantho Animal Fisheries Product Processing Export Enterprise (Cafatex); Camau Frozen Seafood Processing Import Export Corporation, or Camau Seafood Factory No. 4 (''CAMIMEX''); Can Tho Agricultural and Animal Product Import Export Company (''CATACO''); Can Tho Agricultural Products aka CATACO; Coastal Fishery Development; Coastal Fisheries Development Corporation (Cofidec); Coastal Fisheries Development Corporation (Cofidec); C P Vietnam Livestock Co. Ltd.; C P Livestock; Cuulong Seaproducts Company (''Cuu Long Seapro''); Cuu Long Seaproducts Limited (Cuulong Seapro); Danang Seaproducts Import Export Corporation (''Seaprodex Danang'') and Tho Quang Seafood Processing & Export Company; Frozen Seafoods Factory No. 32 aka thuan phuoc); Frozen Seafoods Fty aka above Thuan Phuoc; Grobest & I-Mei Industry Vietnam; Grobest; Investment Commerce Fisheries Corporation (''Incomfish''); Kim Anh Co., Ltd.; Minh Hai Export Frozen Seafood Processing Joint Stock Company; Minh Hai Export Frozen Seafood Processing Joint Stock Company (''Minh Hai Jostoco''); Minh Hai Joint-Stock Seafoods Processing Company (''Seaprodex Minh Hai''); Minh Hai Sea Products Import Export Company (Seaprimex Co); Minh Phat Seafood Co., Ltd.; Minh Phat Seafood; Minh Phu Seafood Export Import Corporation (and affiliates Minh Qui Seafood Co., Ltd. and Minh Phat Seafood Co., Ltd.); Minh Phu Seafood Corp.; Minh Phu Seafood Corporation; Minh Qui Seafood; Minh Qui Seafood Co., Ltd.; Ngoc Sinh Private Enterprise; Ngoc Sinh Seafoods; Nha Trang Fisheries Joint Stock Company (''Nha Trang Fisco''); Nha Trang Seaproduct Company (''Nha Trang Seafoods''); Phu Cuong Seafood Processing and Import-Export Co., Ltd. ; Phuong Nam Co. Ltd.; Phuong Nam Seafood Co. Ltd.; Sao Ta Foods Joint Stock Company (''Fimex VN''); Soc Trang Aquatic Products and General Import Export Company (''Stampimex''); Thuan Phuoc Seafoods and Trading Corporation and frozen seafoods factory 32 and seafoods and foodstuff factory; UTXI Aquatic Products Processing Company; Viet Foods Co., Ltd. (''Viet Foods''); Viet Hai Seafoods Company Ltd. (''Vietnam Fish One Co. Ltd.''); Viet Hai Seafoods Company Ltd. (''Vietnam Fish One Co. Ltd.''); Vietnam Fish-One Co., Ltd.; Vinh Loi Import Export Company (''Vimexco''). Due to multiple name variations for companies upon which Petitioner and LSA requested an administrative review, the Department referred to these variations as companies/groups.

[10] These companies were: AAAS Logistics; Agrimex; American Container Line; An Giang Fisheries Import and Export Joint Stock Company (Agifish); Angiang Agricultural Technology Service Company; Bentre Frozen Aquaproduct Exports; Can Tho Seafood Exports; Cautre Enterprises; Dong Phuc Huynh; General Imports & Exports; Hacota; Hai Thuan Export Seaproduct Processing Co., Ltd.; Hai Viet; Hatrang Frozen Seaproduct Fty; Hoa Nam Marine Agricultural; Lamson Import-Export Foodstuffs Corporation; Nha Trang Company Limited; Nha Trang Fisheries Co. Ltd.; Saigon Orchide; Sea Product; Sea Products Imports & Exports; Seafood Processing Imports-Exports; Sonacos; Song Huong ASC Joint Stock Company; Special Aquatic Products Joint Stock Company (''Seaspimex''); Tacvan Frozen Seafoods Processing Export Company; Thami Shipping & Airfreight; Thanh Long; Thien Ma Seafood; Tourism Material and Equipment Company (Matourimex Hochiminh City Branch); Truc An Company; Vietnam Northern Viking Technology Co. Ltd.; Vietnam Northern Viking Technologie Co ltd.; Vilfood Co.; Vita; V N Seafoods.

[11] *See, e.g., Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Preliminary Results of Administrative Reviews and Preliminary Partial Rescission of Antidumping Duty Administrative Reviews*, 71 FR 11580 (March 8, 2006) (unchanged in final results); *Final Results of Antidumping Duty Administrative Review for Two Manufacturers/Exporters: Certain Preserved Mushrooms from the People's Republic of China*, 65 FR 50183, 50184 (August 17, 2000).

that has been discredited. *See D&L Supply Co. v. United States*, 113 F.3d 1220, 1221 (Fed. Cir. 1997) (the Department will not use a margin that has been judicially invalidated). None of these unusual circumstances are present with respect to the rate being used here. Moreover, the rate selected (*i.e.*, 25.76 percent) is the rate currently applicable to the Vietnam–wide entity. The Department assumes that if an uncooperative respondent could have demonstrated a lower rate, it would have cooperated. *See Rhone Poulenc, Inc. v. United States*, 899 F2d 1185 (Fed. Cir. 1990); *Ta Chen Stainless Steel Pipe, Inc. v. United States*, 24 CIT 841 (2000) (respondents should not benefit from failure to cooperate). As there is no information on the record of this review that demonstrates that this rate is not appropriate to use as AFA in the current review, we determine that this rate has relevance.

As this rate is both reliable and relevant, we determine that it has probative value, and is thus in accordance with section 776(c)'s requirement that secondary information be corroborated to the extent practicable (*i.e.*, that it have probative value).

Non–Market Economy Country Status

In every case conducted by the Department involving Vietnam, Vietnam has been treated as a non–market economy (''NME'') country. 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. *See Brake Rotors From the People's Republic of China: Final Results and Partial Rescission of the 2004/2005 Administrative Review and Notice of Rescission of 2004/2005 New Shipper Review*, 71 FR 66304 (November 14, 2006). None of the parties to this proceeding have contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to NME countries.

Separate Rates Determination

A designation as an NME remains in effect until it is revoked by the Department. *See* section 771(18)(C) of the Act. Accordingly, there is a rebuttable presumption that all companies within Vietnam are subject to government control and, thus, should be assessed a single antidumping duty rate. It is the Department's standard policy to assign all exporters of the merchandise subject to review in NME countries a single rate unless an exporter can affirmatively demonstrate an absence of government control, both in law (*de jure*) and in fact (*de facto*), with respect to exports. To establish whether a company is sufficiently independent to be entitled to a separate, company–specific rate, the Department analyzes each exporting entity in an NME country under the test established in the *Final Determination of Sales at Less than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as amplified by the *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*'').

One separate rate company, Amanda Foods (Vietnam) Limited, reported that it is wholly owned by individuals or companies located in a market economy in its separate–rate application. Therefore, because it is wholly foreign–owned, and we have no evidence indicating that its export activities are under the control of the Vietnamese government, a separate rates analysis is not necessary to determine whether this company is 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 71104–05 (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 Amanda Foods (Vietnam) Limited.

A. 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; and (2) any legislative enactments decentralizing control of companies.

Although the Department has previously assigned a separate rate to all of the companies eligible for a separate rate in the instant proceeding, it is the Department's policy to evaluate separate rates questionnaire responses each time a respondent makes a separate rates claim, regardless of whether the respondent received a separate rate in the past. *See Manganese Metal from the People's Republic of China, Final Results and Partial Rescission of Antidumping Duty Administrative Review*, 63 FR 12440 (March 13, 1998).

In this review, MPG and Camimex, and the 27 participating separate rate companies/groups submitted complete responses to the separate rates section of the Department's NME questionnaire. The evidence submitted by these companies includes government laws and regulations on corporate ownership, business licenses, and narrative information regarding the companies' operations and selection of management. The evidence provided by these companies supports a finding of a *de jure* absence of government control over their export activities. We have no information in this proceeding that would cause us to reconsider this determination. Thus, we believe that the evidence on the record supports a preliminary finding of an absence of *de jure* government control based on: (1) an absence of restrictive stipulations associated with the exporter's business license; and (2) the legal authority on the record decentralizing control over the respondents.[12]

B. Absence of *De Facto* Control

The absence of *de facto* government control over exports is based on whether the Respondent: (1) sets its own export prices independent of the government and other exporters; (2) retains the proceeds from its export sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) has the authority to negotiate and sign contracts and other agreements; and (4) has autonomy from the government regarding the selection of management. *See Silicon Carbide*, 59 FR at 22587; *Sparklers*, 56 FR at 20589; *see also Notice of Final Determination of Sales at Less Than Fair Value: Furfuryl Alcohol from the People's Republic of China*, 60 FR 22544, 22545 (May 8, 1995).

In their questionnaire responses, MPG, Camimex, and the separate rate companies submitted evidence indicating an absence of *de facto*

[12] This preliminary finding applies to (1) the two selected respondents of this administrative review: MPG and Camimex; and (2) the non-selected respondents of this administrative review seeking a separate rate: C.P. Vietnam Livestock Co., Ltd.; Ca Mau Seafood Joint Stock Company; Cadovimex Seafood Import-Export and Processing Joint-Stock Company; Cafatex Fishery Joint Stock Corporation; Can Tho Agricultural and Animal Products Import and Export Company; Coastal Fisheries Development Corporation; Cuulong Seaproducts Company; Danang Seaproducts Import Export Corporation; Thuan Phuoc Seafoods and Trading Corporation; Grobest and I-Mei Industrial Vietnam Co., Ltd.; Investment Commerce Fisheries Corporation; Kim Anh Company Limited; Minh Hai Export Frozen Seafoods Processing Joint Stock Company; Minh Hai Joint Stock Seafoods Processing Company; Ngoc Sinh Private Enterprise; Nha Trang Fisheries Joint Stock Company; Nha Trang Seaproduct Company; Phu Cuong Seafood Processing & Import-Export Co., Ltd.; Phuong Nam Co., Ltd.; Sao Ta Foods Joint Stock Company; Soc Trang Seafood Joint Stock Company; UTXI Aquatic Products Processing Corporation; Viet Foods Co., Ltd.; Vietnam Fish One Co., Ltd.; and Vinh Loi Import Export Company.

government control over their export activities. Specifically, this evidence indicates that: (1) each company sets its own export prices independent of the government and without the approval of a government authority; (2) each company retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) each company has a general manager, branch manager or division manager with the authority to negotiate and bind the company in an agreement; (4) the general manager is selected by the board of directors or company employees, and the general manager appoints the deputy managers and the manager of each department; and (5) there is no restriction on any of the companies use of export revenues. Therefore, the Department preliminarily finds that MPG, Camimex, and the separate rate companies have established *prima facie* that they qualify for separate rates under the criteria established by *Silicon Carbide* and *Sparklers*.[13]

Separate Rate Calculation

Based on timely requests from individual exporters and petitioners, the Department originally initiated this review with respect to 76 companies/groups. During the course of the review, multiple requests for review were withdrawn; however, the Department employed a limited examination methodology, as it did not have the resources to examine all companies for which a review request was made. As stated previously, the Department selected two exporters, MPG and Camimex, as mandatory respondents in this review. Twenty–seven additional companies submitted timely information as requested by the Department and remain subject to review as cooperative separate rate respondents.

The Department must also assign a rate to the remaining 27 cooperative separate rate respondents not selected for individual examination. We note that the statute and the Department's regulations do not directly address the establishment of a rate to be applied to individual companies not selected for examination where the Department limited its examination in an administrative review pursuant to section 777(A)(c)(2) of the Act. The Department's practice in this regard, in cases involving limited selection based on exporters accounting for the largest volumes of trade, has been to weight–average the rates for the selected companies excluding zero and *de minimis* rates and rates based entirely on AFA. However, in the instant review, we have calculated *de minimis* company–specific dumping margins for MPG and Camimex, and assigned the 27 separate rate respondents a dumping margin equal to the weighted average of the dumping margins calculated for MPG and Camimex pursuant to section 735(c)(5)(B) of the Act. *See* ''Preliminary Results of the Review'' section below for additional detail regarding the Department's methodology to calculate the weighted average of the dumping margins for the separate rate companies.

Surrogate Country

When the Department is investigating imports from an NME country, section 773(c)(1) of the Act directs it to base NV, in most circumstances, on the NME producer's factors of production (''FOPs''), 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 FOPs, the Department shall utilize, to the extent possible, the prices or costs of FOPs in one or more market economy countries that are: (1) at a level of economic development comparable to that of the NME country; and (2) significant producers of comparable merchandise. The sources of the surrogate factor values are discussed under the ''Normal Value'' section below and in *Memorandum to the File through Alex Villanueva, Program Manager, Office 9 from Irene Gorelik, Senior Analyst, Office 9: Second Antidumping Duty Administrative Reviews of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Surrogate Values for the Preliminary Results*, dated February 28, 2008 (''*Factor Valuation Memo*'').

The Department determined that Bangladesh, Pakistan, India, Sri Lanka, and Indonesia are countries comparable to Vietnam in terms of economic development.[14] Moreover, it is the Department's practice to select an appropriate surrogate country based on the availability and reliability of data from the countries. *See Department Policy Bulletin No. 04.1: Non–Market Economy Surrogate Country Selection Process* (March 1, 2004). In this case, we find that the information on the record shows that Bangladesh is the appropriate surrogate country because Bangladesh is at a similar level of economic development pursuant to section 773(c)(4) of the Act, is a significant producer of comparable merchandise, and has reliable, publicly available data representing a broad–market average. *See Memorandum to the File, through James C. Doyle, Office Director, Office 9, Import Administration, from Irene Gorelik, Senior Case Analyst, Subject: Second Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Selection of a Surrogate Country* (February 28, 2008).

In accordance with 19 CFR 351.301(c)(3)(ii), for the final results in an antidumping administrative review, interested parties may submit publicly available information to value FOPs within 20 days after the date of publication of these preliminary results.

U.S. Price

A. Export Price

In accordance with section 772(a) of the Act, we calculated the EP for sales to the United States for Camimex because the first sale to an unaffiliated party was made before the date of importation and the use of constructed EP (''CEP'') was not otherwise warranted. Additionally, we calculated the EP for a portion of MPG's sales to the United States. We calculated EP based on the price to unaffiliated purchasers in the United States. In accordance with section 772(c) of the Act, as appropriate, we deducted from the starting price to unaffiliated purchasers foreign inland freight and brokerage and handling. Each of these services was either provided by an NME vendor or paid for using an NME currency. Thus, we based the deduction of these movement charges on surrogate values. Additionally, for international freight provided by a market economy provider and paid in U.S. dollars, we used the actual cost per kilogram of the freight. *See Factor Valuation Memo* for details regarding the surrogate values for movement expenses.

B. Constructed Export Price

For the majority of MPG's sales, we based U.S. price on CEP in accordance with section 772(b) of the Act, because sales were made on behalf of the Vietnam–based company by its U.S. affiliate to unaffiliated purchasers. For these sales, we based CEP on prices to the first unaffiliated purchaser in the United States. Where appropriate, we made deductions from the starting price (gross unit price) for foreign movement expenses, international movement

[13] This preliminary finding applies to the same companies listed in footnote 12.

[14] *Memorandum from Ron Lorentzen, Director, Office of Policy, to Jim Doyle, Office Director, AD/CVD Enforcement, Office 9: Administrative Review of Certain Warmwater Shrimp from Vietnam: Request for a List of Surrogate Countries*, dated July 31, 2007, at Attachment I.

expenses, U.S. movement expenses, and appropriate selling adjustments, in accordance with section 772(c)(2)(A) of the Act.

In accordance with section 772(d)(1) of the Act, we also deducted those selling expenses associated with economic activities occurring in the United States. We deducted, where appropriate, commissions, inventory carrying costs, credit expenses, and indirect selling expenses. Where foreign movement expenses, international movement expenses, or U.S. movement expenses were provided by Vietnam service providers or paid for in Vietnamese Dong, we valued these services using surrogate values (*see* ''Factors of Production'' section below for further discussion). For those expenses that were provided by a market–economy provider and paid for in market–economy currency, we used the reported expense. Due to the proprietary nature of certain adjustments to U.S. price, for a detailed description of all adjustments made to U.S. price for MPG, *see Memorandum to the File, through Alex Villanueva, Program Manager, Office 9, from Irene Gorelik, Senior Analyst, Office 9; Company Analysis Memorandum in the Antidumping Duty Administrative Review of Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam; Minh Phu Group*, dated February 28, 2008.

Normal Value

1. Methodology

Section 773(c)(1)(B) 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 FOPs because the presence of government controls on various aspects of NMEs renders price comparisons and the calculation of production costs invalid under the Department's normal methodologies.

2. Factor Valuations

In accordance with section 773(c) of the Act, we calculated NV based on FOPs reported by respondents for the POR, except as noted above. To calculate NV, we multiplied the reported per–unit factor–consumption rates by publicly available Bangladeshi surrogate values. 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 Bangladeshi import surrogate values a surrogate freight cost using the shorter of the reported distance from the domestic supplier to the factory of production or the distance from the nearest seaport to the factory of production 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). Where we did not use Bangladeshi Import Statistics, we calculated freight based on the reported distance from the supplier to the factory.

With regard to surrogate values and the market–economy input values, we have disregarded 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, Thailand, and India 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) (''*CTVs from the PRC*''), and accompanying Issues and Decision Memorandum at Comment 7; *see also Certain Cut–to-Length Carbon Steel Plate from Romania: Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review*, 70 FR 12651 (March 15, 2005), and accompanying Issues and Decision Memorandum at Comment 4. The legislative history provides that in making its determination as to whether input values may be subsidized, the Department is not required to conduct a formal investigation, rather, Congress directed the Department to base its decision on information that is available to it at the time it makes its determination. *See* H.R. Rep. 100–576 at 590 (1988).

Therefore, based on the information currently available, we have not used prices from these countries either in calculating the Bangladeshi 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 Bangladeshi import–based surrogate values to value the input. To value the main input, head–on, shell–on shrimp, the Department used data contained in a study of the Bangladeshi shrimp industry published by the Network of Aquaculture Centres in Asia–Pacific, an intergovernmental organization affiliated with the UN's Food and Agriculture Organization.[15] The Department used United Nations ComTrade Statistics, provided by the United Nations Department of Economic and Social Affairs' Statistics Division, as its primary source of Bangladeshi surrogate value data.[16] The data represents cumulative values for the calendar year 2004, for inputs classified by the Harmonized Commodity Description and Coding System number. For each input value, we used the average value per unit for that input imported into Bangladesh from all countries that the Department has not previously determined to be NME countries. Import statistics from countries that the Department has determined to be countries which subsidized exports (*i.e.*, Indonesia, Korea, Thailand, and India) and imports from unspecified countries also were excluded in the calculation of the average value. *See CTVs from the PRC*, 69 FR 20594 (April 16, 2004).

It is the Department's practice to calculate price index adjustors to inflate or deflate, as appropriate, surrogate values that are not contemporaneous with the POR using the wholesale price index (''WPI'') for the subject country. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Hand Trucks and Certain Parts Thereof from the People's Republic of China*, 69 FR 29509 (May 24, 2004). However, in this case, a WPI was not available for Bangladesh. Therefore, where publicly available information contemporaneous with the POI with which to value factors could not be obtained, surrogate values were adjusted using the Consumer Price Index rate for Bangladesh, or the WPI for India or Indonesia (for certain surrogate values where Bangladeshi data could not be obtained), as published in the International Financial Statistics of the International Monetary Fund.

Certain surrogate values were calculated using data from the 2004 Statistical Yearbook of Bangladesh, published by the Bangladesh Bureau of Statistics, Planning Division, Ministry of Planning. The information represents

[15] For a detailed explanation of the Department's valuation of shrimp, see *Factor Valuation Memo.*

[16] This can be accessed online at: *http://www.unstats.un.org/unsd/comtrade/.*

cumulative values for the period of 2004. Certain other Bangladeshi sources were used as well. *See Factor Valuation Memo*. The unit values were initially calculated in takas/unit.

Bangladeshi and other surrogate values denominated in foreign currencies were converted to USD using the applicable average exchange rate based on exchange rate data from the Department's website.

To value packing materials, we used UN ComTrade data as the primary source of Bangladeshi surrogate value data.

To value factory overhead, Selling, General & Administrative expenses, and profit, we used the simple average of the 2005–2006 financial statement of Apex Foods Limited and the 2005–2006 financial statement of Gemini Seafood Limited, both of which are Bangladeshi shrimp processors. *See Factor Valuation Memo*, at Exhibit 12.

Preliminary Results of the Review

The Department has determined that the following preliminary dumping margins exist for the period February 1, 2006, through January 31, 2007:

CERTAIN FROZEN WARMWATER SHRIMP FROM VIETNAM

Manufacturer/Exporter	Weighted–Average Margin (Percent)
Minh Phu Group.	
Minh Phat Seafood Co., Ltd., aka Minh Phat Seafood aka Minh Phu Seafood Export Import Corporation (and affiliates Minh Qui Seafood Co., Ltd. and Minh Phat Seafood Co., Ltd.) aka Minh Phu Seafood Corp. aka Minh Phu Seafood Corporation aka Minh Qui Seafood aka Minh Qui Seafood Co., Ltd.	0.01 (*de minimis*)
Camau Frozen Seafood Processing Import Export Corporation, aka Camau Seafood Factory No. 4 (''CAMIMEX'')	0.00 (*de minimis*)
Amanda Foods (Vietnam) Ltd.	0.01 (*de minimis*)
C.P. Vietnam Livestock Co. Ltd., aka C P Vietnam Livestock Co. Ltd., aka C P Livestock	0.01 (*de minimis*)
Cadovimex Seafood Import–Export and Processing Joint Stock Company (''CADOVIMEX'') aka Cai Doi Vam Seafood Import–Export Company (Cadovimex)	0.01 (*de minimis*)
Cafatex Fishery Joint Stock Corporation (''Cafatex Corp.'') aka Cantho Animal Fisheries Product Processing Export Enterprise (Cafatex)	0.01 (*de minimis*)
Can Tho Agricultural and Animal Product Import Export Company (''CATACO'') aka Can Tho Agricultural Products aka CATACO[17]	0.01 (*de minimis*)
Coastal Fishery Development aka Coastal Fisheries Development Corporation (Cofidec) aka Coastal Fisheries Development Corporation (Cofidec)	0.01 (*de minimis*)
Cuulong Seaproducts Company (''Cuu Long Seapro'') aka Cuu Long Seaproducts Limited (Cuulong Seapro) 2	0.01 (de minimis)
Danang Seaproducts Import Export Corporation (''Seaprodex Danang'') aka Tho Quang Seafood Processing & Export Company	0.01 (*de minimis*)
Frozen Seafoods Factory No. 32, aka Frozen Seafoods Fty, aka Thuan Phuoc, aka Thuan Phuoc Seafoods and Trading Corporation, aka Frozen Seafoods Factory 32, aka Seafoods and Foodstuff Factory	0.01 (*de minimis*)
Grobest & I–Mei Industry Vietnam, aka Grobest	0.01 (*de minimis*)
Investment Commerce Fisheries Corporation (''Incomfish'')	0.01 (*de minimis*)
Kim Anh Co., Ltd.	0.01 (*de minimis*)
Minh Hai Export Frozen Seafood Processing Joint Stock Company, aka Minh Hai Export Frozen Seafood Processing Joint Stock Company (''Minh Hai Jostoco'')	0.01 (*de minimis*)
Minh Hai Joint–Stock Seafoods Processing Company (''Seaprodex Minh Hai'')	0.01 (*de minimis*)
Minh Hai Sea Products Import Export Company (Seaprimex Co) , aka Ca Mau Seafood Joint Stock Company (''SEAPRIMEXCO'')	0.01 (*de minimis*)
Ngoc Sinh Private Enterprise	0.01 (*de minimis*)
Ngoc Sinh Seafoods	0.01 (*de minimis*)
Nha Trang Fisheries Joint Stock Company (''Nha Trang Fisco'')	0.01 (*de minimis*)
Nha Trang Seaproduct Company (Nha Trang Seafoods'')	0.01 (*de minimis*)
Phu Cuong Seafood Processing and Import–Export Co., Ltd.	0.01 (*de minimis*)
Phuong Nam Co. Ltd., aka Phuong Nam Seafood Co. Ltd.	0.01 (*de minimis*)
Sao Ta Foods Joint Stock Company (''Fimex VN'')	0.01 (*de minimis*)
Soc Trang Aquatic Products and General Import Export Company (''Stampimex'')	0.01 (*de minimis*)
UTXI Aquatic Products Processing Company	0.01 (*de minimis*)
Viet Foods Co., Ltd. (''Viet Foods'')	0.01 (*de minimis*)
Viet Hai Seafoods Company Ltd. (''Vietnam Fish One Co. Ltd.'') aka Vietnam Fish–One Co., Ltd.	0.01 (*de minimis*)
Vinh Loi Import Export Company (''Vimexco'')	0.01 (*de minimis*)
Vietnam–Wide Rate[18]	25.76

[17] The separate rate granted to Cataco is limited to only Cataco's exports of subject merchandise during the POR. Cataco's separate rate does not apply to Cantho Import-Export Seafood Joint Stock Company, aka Caseamex. For more discussion, *see Memorandum to the File from Irene Gorelik, Analyst, re; 2006/2007 Antidumping Duty Administrative Review on Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam; Cataco's Separate Rate*, dated February 28, 2008.

[18] The Vietnam-Wide entity includes the companies listed in footnote 10 above.

While the Department has, for these preliminary results, applied the weighted–average rates calculated for the two mandatory respondents, Camimex and MPG, to the companies not individually examined,[19] we invite

[19] These companies are: Amanda Foods (Vietnam) Ltd.; C.P. Vietnam Livestock Co. Ltd.; C P Vietnam Livestock Co. Ltd.; C P Livestock; Ca Mau Seafood Joint Stock Company (''SEAPRIMEXCO''); Minh Hai Sea Products Import Export Company (Seaprimex Co); Cadovimex Seafood Import-Export and Processing Joint Stock Company (''CADOVIMEX''); Cai Doi Vam Seafood Import-Export Company (Cadovimex); Cafatex Fishery Joint Stock Corporation (''Cafatex Corp.''); Cantho Animal Fisheries Product Processing Export Enterprise (Cafatex); Can Tho Agricultural and Animal Product Import Export Company (''CATACO''); Can Tho Agricultural Products aka CATACO; Coastal Fishery Development; Coastal Fisheries Development

Continued

comments from interested parties regarding the methodology to be used to determine the rate for non–examined companies. Specifically, we invite interested parties to comment on the rate to be applied to the non–examined companies, considering, but not limited to, the following factors: (a) The Department has limited its examination of respondents pursuant to section 777A(c)(2)(B) of the Act, (b) section 735(c)(5) provides that, with some exceptions, the all–others rate in an investigation is to be calculated excluding any margins that are zero, *de minimis* or based entirely on facts available, and (c) the SAA states that with respect to the calculation of the all–others rate in such cases, ''the expected method will be to weight–average the zero and *de minimis* margins and margins determined pursuant to the facts available, provided that volume data is available. However, if this method is not feasible, or if it results in an average that would not be reasonably reflective of potential dumping margins for non–investigated exporters or producers, Commerce may use other reasonable methods.'' *See* SAA at 873.

The Department will disclose calculations performed for these preliminary results to the parties within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

Interested parties may submit case briefs and/or written comments no later than 30 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(c)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 37 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.309(d).

Any interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Requests should contain the following information: (1) the party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations will be limited to issues raised in the briefs. If we receive a request for a hearing, we plan to hold the hearing seven days after the deadline for submission of the rebuttal briefs at the U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, within 120 days of publication of these preliminary results, pursuant to section 751(a)(3)(A) of the Act.

Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by these reviews. The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. In accordance with 19 CFR 351.212(b)(1), for Camimex and MPG, we calculated an exporter/importer (or customer)-specific assessment rate for the merchandise subject to this review. Where the respondent has reported reliable entered values, we calculated importer (or customer)-specific *ad valorem* rates by aggregating the dumping margins calculated for all U.S. sales to each importer (or customer) and dividing this amount by the total entered value of the sales to each importer (or customer). *See* 19 CFR 351.212(b)(1). Where an importer (or customer)-specific *ad valorem* rate is greater than *de minimis*, we will apply the assessment rate to the entered value of the importer's/customer's entries during the review period. *See* 19 CFR 351.212(b)(1).

Where we do not have entered values for all U.S. sales, we calculated a per–unit assessment rate by aggregating the antidumping duties due for all U.S. sales to each importer (or customer) and dividing this amount by the total quantity sold to that importer (or customer). *See* 19 CFR 351.212(b)(1). To determine whether the duty assessment rates are *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer (or customer)-specific *ad valorem* ratios based on the estimated entered value. Where an importer (or customer)-specific *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. *See* 19 CFR 351.106(c)(2).

For the companies receiving a separate rate that 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 pursuant to section 735(c)(5)(B) of the Act. Where the weighted–average *ad valorem* rate is zero or *de minimis*, we will instruct CBP to liquidate appropriate entries without regard to antidumping duties. *See* 19 CFR 351.106(c)(2).

For Bac Lieu, Khanh Loi, Pataya, Seaprodex, Bentre, Seaprodex Hanoi, and Camranh, companies for which this review is preliminarily rescinded, antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(2).

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of the administrative review for all shipments of warmwater shrimp from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) for the exporters listed above, the cash–deposit rate will be that established in these final results of review (except, if the rate is zero or *de minimis*, no cash deposit will be required); (2) for previously reviewed or investigated companies not listed above that have separate rates, the cash–deposit rate will continue to be the exporter–specific rate published for the most recent period; (3) for all other Vietnamese exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash–deposit rate will be the Vietnam–wide rate of 25.76 percent; and (4) for all non–Vietnamese exporters of subject merchandise which have not received their own rate, the cash–deposit rate will be the rate applicable to the Vietnamese exporter that supplied that exporter. These deposit

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Corporation (Cofidec); Coastal Fisheries Development Corporation (Cofidec); Cuulong Seaproducts Company (''Cuu Long Seapro''); Cuu Long Seaproducts Limited (Cuulong Seapro); Danang Seaproducts Import Export Corporation (''Seaprodex Danang'') and THO Q Tho Quang Seafood Processing & Export Company; Thuan Phuoc Seafoods and Trading Corporation aka Frozen Seafoods Factory 32 aka Seafoods and Foodstuff Factory; Frozen Seafoods Factory No. 32 aka thuan phuoc) Frozen Seafoods Fty aka above Thuan Phuoc; Grobest & I-Mei Industry Vietnam; Grobest; Investment Commerce Fisheries Corporation (''Incomfish''); Kim Anh Co., Ltd.; Minh Hai Export Frozen Seafood Processing Joint Stock Company; Minh Hai Export Frozen Seafood Processing Joint Stock Company (''Minh Hai Jostoco''); Minh Hai Joint-Stock Seafoods Processing Company (''Seaprodex Minh Hai''); Ngoc Sinh Private Enterprise; Ngoc Sinh Seafoods; Nha Trang Fisheries Joint Stock Company (''Nha Trang Fisco''); Nha Trang Seaproduct Company (''Nha Trang Seafoods''); Phu Cuong Seafood Processing and Import-Export Co., Ltd.; Phuong Nam Co. Ltd.; Phuong Nam Seafood Co. Ltd.; Sao Ta Foods Joint Stock Company (''Fimex VN''); Soc Trang Aquatic Products and General Import Export Company (''Stampimex''); UTXI Aquatic Products Processing Company; Viet Foods Co., Ltd. (''Viet Foods''); Viet Hai Seafoods Company Ltd. (''Vietnam Fish One Co. Ltd.''); Viet Hai Seafoods Company Ltd. (''Vietnam Fish One Co. Ltd''); Vietnam Fish-One Co., Ltd.; and Vinh Loi Import Export Company (''Vimexco'').

requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also 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.

This administrative review and this notice are in accordance with sections 751(a)(1) and 777(i) of the Act, and 19 CFR 351.213 and 351.221(b)(4).

Dated: February 28, 2008.

Stephen J. Claeys,

Acting Assistant Secretary for Import Administration.

[FR Doc. E8–4412 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF97

Marine Mammals; File No. 10137

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Pacific Islands Fisheries Science Center, Marine Mammal Research Program (MMRP), 2570 Dole Street, Honolulu, HI 96822–2396 (Responsible Party: George A. [Bud] Antonelis, Jr.), has applied in due form for a permit to conduct research and enhancement activities on Hawaiian monk seals (*Monachus schauinslandi*).

DATES: Written, telefaxed, or e-mail comments must be received on or before April 7, 2008.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)713–0376; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808)944–2200; fax (808)973–2941.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)713–0376, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 10137.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Kate Swails, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The MMRP proposes to continue research and enhancement activities on Hawaiian monk seals currently authorized under Permit No. 848–1695. The purposes of the proposed activities are to (1) assess survivorship, reproductive rates, pup production, condition, abundance, movements among subpopulations, and incidence and causes of injury or mortality; (2) diagnose disease, monitor exposure to disease, and develop normal baseline hematology and biochemistry parameters; (3) conduct activities to increase survival of individuals; and (4) investigate foraging ecology to determine foraging locations, diving parameters, characteristics of foraging substrate, and prey identification and foraging behaviors.

The type and manner of research takes proposed include monitoring (ground, vessel, and aerial surveys); marking (bleach marks, flipper tags, passive integrated transponder [PIT] tags, photo-identification) and measuring (morphometrics); health and disease assessments (capture, sedation, biological sampling [swabs, fecal loop, blood, blubber biopsy]; administration of an anthelminthic to assess efficacy of reducing intestinal parasite loads in pups and juveniles; import/export of specimens; necropsies; and opportunistic specimen collection); and foraging studies (instrumentation). The type and manner of enhancement takes includes translocations of pups and juveniles to increase survival; removal of adult males known to kill immature seals; and disentanglements of seals.

The following takes will occur annually: Up to 1,440 seals of any age/sex could be incidentally disturbed from monitoring activities; 200 seals may be incidentally disturbed during all other research and enhancement activities. Up to 1,315 seals will be bleach marked, and a total of 556 seals of any size or sex except lactating females and nursing pups will be flipper and PIT tagged, measured, and sampled for flipper plugs (includes retagging). Up to 80 seals of any age/sex will be sampled for health and disease screening, tagged, and measured. Up to 75 immature seals of either sex will be translocated. Up to 50 seals of any age/sex except lactating females or nursing pups will be externally tagged with instrumentation, flipper/PIT tagged, and sampled for health and disease screening (additional to above screening). Up to 200 seals of either sex, up to age 3 years, will be treated for intestinal parasites. An unlimited number of seals will be disentangled. Necropsies will be performed on all carcasses, and samples (molt, scat, spew, urine, placentae) will be collected opportunistically from beaches. Samples may be exported/imported for analysis.

The following takes may occur over the 5–year duration of the permit: Up to 5 adult males may be relocated or removed to enhance survival of immature animals; up to 10 moribund seals of any age/sex may be humanely euthanized or die incidental to handling; up to 5 incidental mortalities may occur during research and enhancement activities.

Other species which may be incidentally taken annually are threatened green turtles (*Chelonia mydas*) and endangered Laysan finches (*Telespyza cantans*). Non-listed marine mammals that may be incidentally taken are spinner dolphins (*Stenella longirostris*).

Geographic locations of the take include the Hawaiian Archipelago (Main Hawaiian Islands and Northwestern Hawaiian Islands) and Johnston Atoll. Specimen samples may be imported/exported world-wide. The permit is requested for a 5–year period.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: March 3, 2008.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E8–4374 Filed 3–5–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2008–HA–0019]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In compliance with Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces a new 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 May 5, 2008.

ADDRESSES: You may submit comments, identified by docket number and or RIN 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 and docket number or Regulatory Information Number (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://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 Office of the Assistant Secretary of Defense for Health Affairs (OASD), TRICARE—Health Program Analysis and Evaluation, ATTN: Ms. Laura Johnson, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

Title and OMB Number: TRICARE Dual Eligible Fiscal Intermediary (TDEFIC) Provider Satisfaction Survey, OMB Control Number 0720–TBD.

Needs and Uses: The survey Wisconsin Physician Services (WPS) is to administer is a contract requirement that the Government has accepted and paid for as part of the contract award. This survey is conducted on a monthly basis, and the sample will be drawn from all providers that have had a claim processed in the previous week and therefore is not limited to just Network Providers. WPS will use the survey to assess provider satisfaction, attitudes, and perceptions regarding the claims processing and customer services provided by WPS for the TDEFIC in order to improve internal operations and customer services to increase provider satisfaction.

Affected Public: Individuals or households; Federal Government.

Annual Burden Hours: 11,700.

Number of Respondents: 46,800.

Responses Per Respondent: 1.

Average Burden Per Response: .25.

Frequency: Monthly.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The goal of this survey effort is to assess TRICARE Provider satisfaction, attitudes and perceptions regarding claims processing and customer services provided by Wisconsin Physician Services (WPS) under the TRICARE Dual Eligible Fiscal Intermediary Contract. This survey is part of the WPS proposal in order to meet Section C.7.7.9. of the TRICARE contract language which states that; ''The contractor shall establish an approach for measuring whether the contractor's customer services are achieving highly satisfied TRICARE * * * providers. The methods and procedures shall include measurement, calculation and reporting provider satisfaction. The contractor shall have established methods and procedures to mitigate any identify negative trends for provider satisfaction.'' The surveys will be used to monitor provider satisfaction and allow WPS the feedback needed to take action to improve their customer services and serve the provider better. The survey will be conducted monthly and reported to TRICARE Management Activity.

Dated: February 25, 2008

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E8–4396 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2008–OS–0018]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995*, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following 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 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 May 5, 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 Office of the Under Secretary of Defense (Personnel and Readiness) (Military Community and Family Policy), Department of Defense Education Activity (Human Resources Regional Center), ATTN: Patti Ross, 4040 North Fairfax Drive, Arlington, VA 22203 or call at (703) 588–3915.

Title, Associated Forms, and OMB Control Number: Department of Defense Dependents Schools (DoDDS) Employment Opportunities for Educators; DoDEA Forms 5010, 5011, 5012 and 5013, OMB Control Number 0704–0370.

Needs and Uses: This information collection requirement is necessary to obtain information on prospective applicants for educator positions with the Department of Defense Dependents Schools. The information is used to verify employment history of educator applicants and to determine creditable previous experience for pay-setting purposes on candidates selected for positions. In addition, the information is used to ensure that those individuals selected for employment with the Department of Defense Dependents Schools possess the abilities and personal traits which give promise of outstanding success under the unusual circumstances they will find working abroad. Information gathered is also used to ensure that the Department of Defense Dependents Schools personnel practices meet the requirements of Federal law. Completion of the forms is entirely voluntary with the exception of the form requesting a professional evaluation of the applicant. This information is gathered from those in supervisory and managerial positions to ascertain information relevant to an educator's professional abilities and personal traits.

Affected Public: Individuals or households.

Annual Burden Hours: 5,042.

Number of Respondents: 30,250.

Responses Per Respondent: 1.

Average Burden Per Response: 10 minutes.

Frequency: Annually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The primary objective of the information collection is to ensure quality education from pre-kindergarten through grade 12 for the eligible minor dependents of the Department of Defense military and civilian personnel on official overseas assignments. This is accomplished by securing data from applicants for educational positions and officials with sufficient information to address the applicants' professional abilities and personal traits.

The forms associated with this data collection include:

Department of Defense Dependents Schools Supplemental Application for Overseas Employment (DoDEA Form 5010). The primary objective of this voluntary form is to ascertain applicants' eligibility for educator positions.

Department of Defense Dependents Schools Professional Evaluation (DoDEA Form 5011). This form is provided to officials in managerial and supervisory positions as a means of verifying abilities and personal traits of applicants for educator positions to ensure the selection of the best qualified individual to occupy educator positions.

Department of Defense Dependents Schools Voluntary Questionnaire (DoDEA Form 5012). This voluntary form helps to ensure that the Department of Defense Dependents Schools' personnel practices meet the requirements of Federal law.

Department of Defense Dependents Schools Verification of Professional Educator Employment for Salary Rating Purposes (DoDEA Form 5013). The purpose of this voluntary form is to verify employment history of educator applicants and to determine creditable previous experience for pay-setting purposes on selected candidates.

Dated: February 8, 2008

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E8–4398 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2008–OS–0017]

Proposed Collection; Comment Request

AGENCY: Office of the Under Secretary of Defense (Personnel and Readiness), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995*, the Office of the Under Secretary of Defense (Personnel and Readiness) announces the following proposed collection of public information 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 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 May 5, 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 Office of the Under Secretary of Defense (Personnel and Readiness) (Military Community and Family Policy), Department of Defense Education Activity, (Research & Evaluation Branch), ATTN: Dr. Joseph M. Baltrus, 4040 North Fairfax Drive, Arlington, VA 22203–1635 or call at (703) 588–3163.

Title, and OMB Control Number: Department of Defense Education Activity (DoDEA) Sure Start Parent Questionnaire; OMB Control Number 0704-TBD.

Needs and Uses: This information collection is necessary to allow mid and end of year measurement of Sure Start's effectiveness in meeting the needs of DoDEA students and families. The DoDEA Sure Start Parent Questionnaire measures the satisfaction level of parents/sponsors of students enrolled in DoDEA Sure Start programs.

Affected Public: Individuals or households.

Annual Burden Hours: 11.

Number of Respondents: 33.

Responses Per Respondent: 2.

Average Burden Per Response: 10 minutes.

Frequency: Biannually.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The DoDEA Sure Start program is an educational program for preschoolers who are ''at risk'' for later school failure because of economic circumstance or other health and/or family factors. Because this program is expensive to replicate, it is reserved for those children and families who will most benefit from participation in the program. As specified in the internal document, ''*Sure Start Program Guide 2007–2008 Department of Defense Education Activity,*'' DoDEA Sure Start staff is required to assess the quality of the program as a whole. One component of this program assessment is the completion of a parent questionnaire, which when combined with additional data elements, will be used to develop the annual progress plan. The Sure Start Parent Questionnaire measures the satisfaction level of parents/sponsors of students enrolled in DoDEA Sure Start programs. This questionnaire will be handed out during mid-year parent meetings and again at the end of the year as part of the on-going program evaluation. Individual schools are charged with administering the questionnaire to the parents of students in the Sure Start program. If a student withdraws prior to the end of the school year, the family will be given the questionnaire. Responses will be tallied by each school and forwarded to the Early Childhood specialist in each area (DDESS, Europe, and the Pacific). Individual schools, in coordination with the area office and DoDEA Headquarters, will use these data to ensure that the Sure Start program is being implemented as required and to make continual program improvements. In addition to being informed in writing, all eligible respondents will be verbally informed that their participation is voluntary and no benefit/punishment is attached to a response or non-response.

Dated: February 8, 2008

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E8–4399 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DoD–2008–OS–0016]

Proposed Collection; Comment Request

AGENCY: Defense Finance and Accounting Service, DoD.

ACTION: Notice.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Defense Finance and Accounting Service announces a proposed 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 estimation 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 May 5, 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 Disbursing Management Policy Division, Defense Finance and Accounting Service Kansas City, DFAS–NPD/KC, ATTN: Mr. Clayton Stokley, 1500 E. 95th Street, Kansas City, MO 64197–0030, or call Mr. Clayton Stokley at (816) 926–3600.

Title, Associated Form, and OMB Number: Application Form for Department of Defense (DoD) Stored Value Card (SVC) Programs; DD Form 2887; OMB Control Number 0730–TBD.

Needs and Uses: Department of Defense (DoD) Financial Management Regulation 7000.14–R, Volume 5, requires that eligible individuals desiring to enroll in the Navy/Marine Corps Cash and the EagleCash program complete the DD Form 2887. Also used to authorize the transfer of funds from their personal bank accounts to the SVC for the Navy/Marine Cash Program and to provide a means to effect immediate checkage of the individual's pay if a debt occurs.

Affected Public: Individuals or Households; Business or Other For-Profit; Not-for-Profit Institutions; State, Local or Tribal Government.

Annual Burden Hours: 7,416 hours.

Number of Respondents: 44,500.

Responses Per Respondent: 1.

Average Burden Per Response: 10 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Application Form for DoD SVC Programs is used to ascertain pertinent information needed by DoD in order to have the authorization for the transfer of funds from a financial institution to the SVC and to obtain an agreement from the individual for the immediate checkage of their pay in the event a debt to the United States Government occurs.

Dated: January 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–4422 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Class Tuition Waivers

AGENCY: DoD; Department of Defense Education Activity (DoDEA).

ACTION: Notice.

SUMMARY: The Secretary of Defense is authorized by Section 1404(c) of Public

Law 95–561, ''Defense Dependents' Education Act of 1978,'' as amended, 20 U.S.C. 923(c), to identify classes of dependents who may enroll in DoD Dependents Schools (DoDDS) and to waive tuition for any of such classes. Through DoD Directive 5124.8, ''Principal Deputy Under Secretary of Defense for Personnel and Readiness,'' dated July 16, 2003, subparagraph 4.1.2.2, the Secretary has delegated to the Principal Deputy Under Secretary for Personnel and Readiness (PDUSD(P&R)) the authority to prescribe policies for DoDEA.

This notice announces that the PDUSD(P&R) designated certain classes of dependents for whom tuition may be waived on a space-available, tuition-free basis on the dates listed below. Please note that the availability of space in DoDDS varies from year to year and is not guaranteed. Commanders should ensure that enrollments are timely and do not disrupt the dependent's or school's educational program.

August 24, 2007.—Minor dependents of reserve component members of the Armed Forces who are ordered to active duty under either section 12301 or 12302 of 10 U.S.C., for a period of 180 days or more to an overseas location, on an unaccompanied tour, on either a temporary duty or permanent duty change of station basis when: (1) There is a DoD dependents school in the assigned overseas location, and the minor dependent is transported to the assigned overseas location at the sponsor's expense; or (2) there is no DoD dependents school in the assigned overseas location, but the minor dependent was enrolled (and will remain enrolled) in a DoD dependents school when the sponsor was ordered to active duty. All minor dependents shall be allowed to finish the school year if the activated reserve component member returns to an inactive status. This waiver does not apply to the eligibility classes of minor dependents of federal civilian employees called to active duty, which is governed by separate law.

November 14, 2007.—Minor dependents of foreign military and foreign diplomatic personnel participating in the Partnership for Peace Program in Brussels and Mons, Belgium; Naples, Italy; London, United Kingdom; Brunssum, the Netherlands; and Oberammergau, Germany; and dependents of active diplomatic, defense attaché, and military liaison personnel from the Newly Independent States of the former Soviet Union assigned at Ankara, Turkey.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Lynch, Telephone: 703–588–3201, E-mail: *mike.lynch@hq.dodea.edu*, or Mailing Address: 4040 North Fairfax Drive, Arlington, VA 22203–1635.

Dated: February 28, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. E8–4386 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the DOD Advisory Group on Electron Devices

AGENCY: Department of Defense, Advisory Group on Electron Devices.

ACTION: Notice.

SUMMARY: The DoD Advisory Group on Electron Devices (AGED) announces a closed session meeting.

DATE: The meeting will be held at 0900, Tuesday, March 14, 2008.

ADDRESS: The meeting will be held at the QNA, 4100 N. Fairfax Drive, Suite 800, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Ms. Aimee Steussy, QNA, 4100 N. Fairfax Drive, Suite 800, Arlington, VA 22203, 703–284–8357.

SUPPLEMENTARY INFORMATION: The mission of the Advisory Group is to provide advice to the Under Secretary of Defense for Acquisition, Technology and Logistics, to the Director of Defense Research and Engineering (DDR&E), and through the DDR&E to the Director, Defense Advanced Research Projects Agency and the Military Departments in planning and managing an effective and economical research and development program in the area of electron devices.

The AGED meeting will be limited to review of research and development efforts in electronics and photonics with a focus on benefits to national defense. These reviews may form the basis for research and development programs initiated by the Military Departments and Defense Agencies to be conducted by industry, universities or in government laboratories. The agenda for this meeting will include programs on molecular electronics, microelectronics, electro-optics, and electronic materials.

In accordance with section 10(d) of Public Law 92–463, as amended, (5 U.S.C. App. 2), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1), and that accordingly, this meeting will be closed to the public.

Dated: February 29, 2008.

L.M. Bynum,

Alternate, OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–4377 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

SUMMARY: Under the provisions of 10 U.S.C. 5024, 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 102–3.65, the Department of Defense gives notice that it is renewing the charter for the Naval Research Advisory Committee (hereafter referred to as the Committee).

The Committee is a discretionary federal advisory committee established by the Secretary of Defense to provide the Department of Defense through the Secretary of Navy independent advice and recommendations on a broad array of issues relating to (1) credible and independent analyses and technical challenges and opportunities facing the Department of Navy; and (2) producing cogent, brief high level reports on that analysis.

The Committee shall be composed of not more than 15 members, who are eminent authorities in the fields of science, technology, research and development. Under the provisions of 10 U.S.C. 5024(a) one Committee member shall be from the field of medicine. Committee members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Committee members shall be appointed on an annual basis by the Secretary of Defense and, with the exception of travel and per diem for official travel, they shall serve without compensation, unless otherwise authorized by the Secretary of Navy.

The Committee shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine

Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Committee, and shall report all their recommendations and advice to the Committee for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Committee nor can they report directly to the Department of Defense or any federal officers or employees who are not Committee members.

SUPPLEMENTARY INFORMATION: The Committee shall meet at the call of the Committee's Designated Federal Officer, in consultation with the Secretary of Navy and the Committee's Chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Naval Research Advisory Committee membership about the Committee's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Naval Research Advisory Committee.

All written statements shall be submitted to the Designated Federal Officer for the Naval Research Advisory Committee, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Naval Research Advisory Committee Designated Federal Officer can be obtained from the GSA's FACA Database— *https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Naval Research Advisory Committee. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–2554, extension 128.

Dated: February 26, 2008.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E8–4375 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: Department of Defense.

ACTION: Renewal of Federal Advisory Committee.

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 102–3.65, the Department of Defense gives notice that it is renewing the charter for the U.S. Strategic Command Strategic Advisory Group (hereafter referred to as the Group).

The Group is a discretionary federal advisory committee established by the Secretary of Defense to provide the Department of Defense, the Chairman of the Joint Chiefs of Staff and the U.S. Strategic Command independent advice and recommendations on scientific, technical, intelligence and policy-related issues concerning the development and implementation of the Nation's strategic war plans. The Group, in accomplishing its mission: (a) Ensures the safety, reliability, and performance of nuclear weapons; (b) oversees the Stockpile Stewardship Program; (c) advises on the relevance of deterrence in the new world order; (d) monitors the continued downsizing of nuclear forces and the role of non-nuclear weapons in the strategic planning process; and (e) evaluates the general arms control options for enhanced stability.

The Group shall be composed of not more than 50 members, who are distinguished members of the academia, business, and the defense industry. Group members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Group members shall be appointed on an annual basis by the Secretary of Defense, and the Commander of the U.S. Strategic Command or designated representative shall select the Group's Chairperson from the total Group membership. In addition, the Chairman of the Joint Chiefs of Staff shall be authorized to appoint, as required, non-voting consultants to provide technical expertise to the Group.

Group members and consultants, if required, shall, with the exception of travel and per diem for official travel, serve without compensation.

The Group shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Group, and shall report all their recommendations and advice to the Group for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Group nor can they report directly to the Department of Defense or any federal officers or employees who are not Group members.

SUPPLEMENTARY INFORMATION: The Group shall meet at the call of the Group's Designated Federal Officer, in consultation with the Group's chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the U.S. Strategic Command Strategic Advisory Group membership about the Group's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the U.S. Strategic Command Strategic Advisory Group.

All written statements shall be submitted to the Designated Federal Officer for the U.S. Strategic Command Strategic Advisory Group, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the U.S. Strategic Command Strategic Advisory Group's Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the U.S.

Strategic Command Strategic Advisory Group. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–2554, extension 128.

Dated: February 29, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–4357 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Renewal of Department of Defense Federal Advisory Committees

AGENCY: DoD.

ACTION: Renewal of Federal Advisory Committee.

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 102–3.65, the Department of Defense gives notice that it is renewing the charter for the Department of Defense Wage Committee (hereafter referred to as the Committee).

The Committee is a discretionary federal advisory committee established by the Secretary of Defense to provide the Department of Defense, and all federal agencies independent advice and recommendations on wage surveys and the establishment of wage schedules. The Committee, in accomplishing its mission: (a) Collects wage survey data; (b) reports and recommends use of collected wage survey data; (c) analyses wage survey data; and (c) recommends a proposed wage schedule derived from the data.

The Committee shall be composed of not more than 7 members, who are distinguished members of the human resource, business, and the defense industry.

Committee members appointed by the Secretary of Defense, who are not federal officers or employees, shall serve as Special Government Employees under the authority of 5 U.S.C. 3109. Committee members shall be appointed on an annual basis by the Secretary of Defense, and with the exception of travel and per diem for official travel, they shall serve without compensation.

The Committee shall be authorized to establish subcommittees, as necessary and consistent with its mission, and these subcommittees or working groups shall operate under the provisions of the Federal Advisory Committee Act of 1972, the Government in the Sunshine Act of 1976, and other appropriate federal regulations.

Such subcommittees or workgroups shall not work independently of the chartered Committee, and shall report all their recommendations and advice to the Committee for full deliberation and discussion. Subcommittees or workgroups have no authority to make decisions on behalf of the chartered Committee nor can they report directly to the Department of Defense or any federal officers or employees who are not Committee members.

SUPPLEMENTARY INFORMATION: The Committee shall meet at the call of the Committee's Designated Federal Officer, in consultation with the Committee's chairperson. The Designated Federal Officer, pursuant to DoD policy, shall be a full-time or permanent part-time DoD employee, and shall be appointed in accordance with established DoD policies and procedures. The Designated Federal Officer or duly appointed Alternate Designated Federal Officer shall attend all committee meetings and subcommittee meetings.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the Department of Defense Wage Committee membership about the Committee's mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of the Department of Defense Wage Committee.

All written statements shall be submitted to the Designated Federal Officer for the Department of Defense Wage Committee, and this individual will ensure that the written statements are provided to the membership for their consideration. Contact information for the Department of Defense Wage Committee's Designated Federal Officer can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.*

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Department of Defense Wage Committee. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

FOR FURTHER INFORMATION CONTACT: Contact Jim Freeman, Deputy Committee Management Officer for the Department of Defense, 703–601–2554, extension 128.

Dated: February 29, 2008.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E8–4363 Filed 3–6–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Air Force

[Docket No. USAF–2008–0006]

Proposed Collection; Comment Request

AGENCY: HQ USAFA/RR, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, HQ USAFA/RR announces the 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 May 5, 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: HQ USAFA/RR, ATTN: Mr. Robert Dyster, 2304 Cadet Drive, Suite 2400, USAF Academy, CO 80840 or call 719–333–8850.

Title; Associated Form; and OMB Number: Nomination For Appointment To The United States Military Academy, Naval Academy or Air Force Academy; DD FORM 1870; OMB Control Number 0701–0026.

Needs and Uses: DD FM 1870 is used to implement the provisions of Title X, U.S.C. 4342, 6953 and 32 CFR part 901. Members of Congress, the Vice President and Delegates to Congress and Resident Commissioner of Puerto Rico use this form to nominate constituents to the three DoD Academies, West Point, Annapolis and Air Force. Data required is supplied by the prospective nominees to Members of Congress. Eligibility requirements are outlined in AFI 36–2019, Appointment to the United States Air Force Academy.

Affected Public: Applicants to DoD Military Academies.

Annual Burden Hours: 2,600.

Number of Respondents: 5,200.

Responses Per Respondent: 1.

Average Burden Per Response: 30 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Department of Defense Form 1870, Nomination for Appointment to the United States Military Academy, Naval Academy and Air Force Academy, is used solely by legal nominating authorities who by Federal law are entitled to make appointments to the three service military academies. The nomination form allows for nominating authorities to select by checking one box as to which academy is being provided with the name of a nomination to be processed. Eligibility information concerning the nominees is information that is also included on the form. The nominating authority identifies himself/herself and must date and sign the form to make it a legally acceptable form. The form includes the three addresses of the service academies in order that the form may be submitted to the proper academy. The form is currently used, full time, by only the United States Military Academy. The United States Air Force Academy uses the form only in rare cases totally no more that 100 forms each year. The United States Naval Academy does not use the form. The reason for this is the United States Naval Academy and the United States Air Force Academy now employ an on-line nomination submissions program in lieu of the DD Form 1870. We expect the United States Military Academy will employ the on-line nomination submissions program beginning in the Fall of CY 2008.

Dated: January 14, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. E8–4423 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

Privacy Act of 1974; System of Records

AGENCY: DoD; Defense Intelligence Agency.

ACTION: Notice to Delete Two Systems of Records.

SUMMARY: The Office of the Secretary of Defense is deleting two system of records notices from its existing inventory of records 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 April 7, 2008 unless comments are received which result in a contrary determination.

ADDRESSES: Send comments to the Defense Intelligence Agency, Privacy Act Compliance Officer, DAN 1C, 200 McDill Blvd, Washington DC 20340

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency 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 Defense Intelligence Agency proposes to delete two system of records notices from its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. The proposed deletion is 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: February 28, 2008.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

LDIA 0480

SYSTEM NAME:

Reserve Training Records (February 22, 1993, 58 FR 10613).

REASON:

The records contained in this system of records have been migrated into Human Resources Management System (HRMS); another approved DIA SORN (LDIA 05–0001). Records of personnel no longer in the system have been turned over to the NARA.

LDIA 0275

SYSTEM NAME:

DoD Hotline Referrals (February 22, 1993, 58 FR 10613).

REASON:

The records contained in this system of records have been migrated into LDIA 0271, Investigations and Complaints (July 19, 2006, 71 FR 41006).

[FR Doc. E8–4364 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

[DoD–2008–OS–0021]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Intelligence Agency, DoD

ACTION: Notice To Amend a System of Records

SUMMARY: The Defense Intelligence Agency is amending a system of records notice to 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 April 7, 2008, unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency notices for systems of records 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 amendment is 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.

February 29, 2008.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

LDIA 07–0002

CHANGES:

SYSTEM NAME:

Delete entry and replace with ''Special Program Information Systems.''

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Civilian, military and contract Intelligence Community employees.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individual's full name, Social Security Number (SSN), employee's type (civilian, military or contractor), organization name, type of clearance level, and name of database to which access has been granted.''

* * * * *

PURPOSE(S):

Delete entry and replace with ''To maintain a database of Intelligence Community personnel granted access to specific information within the Intelligence Community.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Data will be maintained as long as users require access to respective databases.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Directorate for Information Management and Chief Information Officer, Defense Intelligence Agency, 200 MacDill Blvd., Washington DC 20340–5100.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Information provided by individuals requesting access and information derived from other databases to verify eligibility, such as security clearance level.''

* * * * *

LDIA 07–0002

SYSTEM NAME:

Special Program Information Systems

SYSTEM LOCATION:

Defense Intelligence Agency, 200 MacDill Boulevard, Washington DC 20340.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian, military and contract Intelligence Community employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's full name, Social Security Number (SSN), employee's type (civilian, military or contractor), organization name, type of clearance level, and name of database to which access has been granted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12958, Classified National Security Information; DoD Instruction 5205.07, Special Access Program (SAP) Policy; DoD Instruction 5205.11, Management, Administration, and Oversight of DoD Special Access Programs (SAPs); DoD 5200.1–R, Information Security Program; DIA Manual 56–1, 31 Special Program Management; and E.O. 9397 (SSN).

PURPOSE(S):

To maintain a database of Intelligence Community personnel granted access to specific information within the Intelligence Community.

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 Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the DIA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name and Social Security Number (SSN).

SAFEGUARDS:

Physical entry is restricted by the use of guards, locks, and administrative procedures. Automated records are password controlled with system-generated, forced password-change protocols or equipped with ''Smart Card'' technology that requires the insertion of an embedded identification card and entry of a PIN.

RETENTION AND DISPOSAL:

Data will be maintained as long as users require access to respective databases.

SYSTEM MANAGER(S) AND ADDRESS:

Directorate for Information Management and Chief Information Officer, Defense Intelligence Agency, 200 MacDill Blvd, Washington DC 20340–5100.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the DIA Privacy Office (DAN–1A), Defense Intelligence Agency, 200 MacDill Blvd, Washington DC 20340–5100.

Requests should contain individual's full name, current address, telephone number, and Social Security Number (SSN).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records, should address written inquiries to the DIA Privacy Official, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100.

Requests should contain individual's full name, current address, telephone number, and Social Security Number (SSN).

CONTESTING RECORD PROCEDURES:

DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Instruction 5400.001 ''Defense Intelligence Agency Privacy Program'' and DIA Instruction 5400.002, Freedom of Information Act.

RECORD SOURCE CATEGORIES:

Information provided by individuals requesting access and information derived from other databases to verify eligibility, such as security clearance level.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–4365 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

[DoD–2008–OS–0022]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Defense Intelligence Agency is amending a system of records notice to 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 April 7, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency notices for systems of records 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 amendment is 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: February 29, 2008.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

LDIA 05–0001

SYSTEM NAME:

Human Resources Management System (HRMS) (November 25, 2005, 70 FR 71099).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Records include, but are not limited to employment, security, education, training & career development, organizational and administrative information such as employee name, Social Security Number (SSN), addresses, phone numbers, emergency contacts and employee identification number, etc.''

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Name and employee identification number.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Defense Intelligence Agency, Directorate of Human Capital, Office for Human Capital Online Services''.

* * * * *

LDIA 05–0001

SYSTEM NAME:

Human Resources Management System (HRMS).

SYSTEM LOCATION:

Defense Intelligence Agency, Washington, DC 20340–0001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former military and civilian personnel employed by or temporarily assigned to the DIA; current and former contract personnel; current and former civilian dependents, current and former military dependents assigned to the Defense Attaché System; and individuals applying for possible employment.

DoD military, civilian, or contractor personnel nominated for security clearance/SCI access by DIA, and other DoD agencies and offices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include, but are not limited to employment, security, education, training & career development, organizational and administrative information such as employee name, Social Security Number (SSN), addresses, phone numbers, emergency contacts and employee identification number, etc.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The National Security Act of 1947, as amended (50 U.S.C. 401 et seq.), 10 U.S.C. 113, 5 U.S.C. 301, 44 U.S.C. 3102, and E.O. 9397 (SSN).

PURPOSE(S):

To collect employment and related information to perform numerous administrative tasks, to include preparing, submitting, and approving official personnel actions; personnel appraisals; and making decisions on benefits & entitlements. HRMS provides a central, official data source for the production of work force demographics, reports, rosters, statistical analysis, and documentation/studies.

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 Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The DoD 'Blanket Routine Uses' set forth at the beginning of the Defense Intelligence Agency's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper and automated records.

RETRIEVABILITY:

Name and employee identification number.

SAFEGUARDS:

The server hosting HRMS is located in a secure area under employee supervision 24/7. Records are maintained and accessed by authorized personnel via Defense Intelligence Agency's internal, classified network. These personnel are properly screened, cleared and trained in the protection of privacy information.

RETENTION AND DISPOSAL:

Disposition pending (until the National Archives and Records Administration has approved retention and disposition of these records, treat as permanent).

SYSTEM MANAGER(S) AND ADDRESS:

Defense Intelligence Agency, Directorate of Human Capital, Office for Human Capital Online Services.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd., Washington, DC 20340–5100.

Individuals should provide their full name, current address, telephone number and Social Security Number.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves,

contained in this system of records, should address written inquiries to the Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd., Washington, DC 20340–5100.

Individuals should provide their full name, current address, telephone number and Social Security Number.

CONTESTING RECORD PROCEDURES:

Defense Intelligence Agency's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Regulation 12–12 ''Defense Intelligence Agency Privacy Program''; 32 CFR part 319—Defense Intelligence Agency Privacy Program; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Agency officials, employees, educational institutions, parent Service of individual and immediate supervisor on station, and other Government officials.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–4370 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

[DoD–2008–OS–0023]

Privacy Act of 1974; Systems of Records

AGENCY: Defense Intelligence Agency, DoD.

ACTION: Notice to Amend a System of Records.

SUMMARY: The Defense Intelligence Agency is amending a system of records notice to 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 April 7, 2008 unless comments are received that would result in a contrary determination.

ADDRESSES: Freedom of Information Office, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100.

FOR FURTHER INFORMATION CONTACT: Ms. Theresa Lowery at (202) 231–1193.

SUPPLEMENTARY INFORMATION: The Defense Intelligence Agency notices for systems of records 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 amendment is 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: February 29, 2008.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

LDIA 07–0002

CHANGES:

SYSTEM NAME:

Delete entry ''Special Program Information System'' and replace with ''Special Program Information Systems.''

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry ''Defense Intelligence Agency personnel, military personnel, and contractor employees'' and replace with ''Civilian, military and contract Intelligence Community employees.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry ''Individual's full name, Social Security Number (SSN), employee's type (civilian, military or contractor), organization name, and type of clearance level'' and replace with ''Individual's full name, Social Security Number (SSN), employee's type (civilian, military or contractor), organization name, type of clearance level, and name of database to which access has been granted.''

* * * * *

PURPOSE(S):

Delete entry ''To maintain a database of Defense Intelligence Agency personnel granted access to specific information within the Intelligence Community'' and replace with ''To maintain a database of Intelligence Community personnel granted access to specific information within the Intelligence Community.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry ''Data will be maintained as long as users maintain an active clearance in a DIA Security System. Once their clearance is no longer active, their entry will be removed automatically'' and replace with ''Data will be maintained as long as users require access to respective databases.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry ''Chief, Program Development Branch, Office for Security Operations and Anti-Terrorism, Defense Intelligence Agency, 200 MacDill Blvd., Washington, DC 20340–5100'' and replace with Directorate for Information Management and Chief Information Officer, Defense Intelligence Agency, 200 MacDill Blvd., Washington, DC 20340–5100.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry ''By the individuals, from other databases, or from external sources'' and replace with ''Information provided by individuals requesting access and information derived from other databases to verify eligibility, such as security clearance level.''

* * * * *

LDIA 07–0002

SYSTEM NAME:

Special Program Information Systems.

SYSTEM LOCATION:

Defense Intelligence Agency, 200 MacDill Boulevard, Washington, DC 20340.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Civilian, military and contract Intelligence Community employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual's full name, Social Security Number (SSN), employee's type (civilian, military or contractor), organization name, type of clearance level, and name of database to which access has been granted.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12958, Classified National Security Information; DoD Instruction 5205.07, Special Access Program (SAP) Policy; DoD Instruction 5205.11, Management, Administration, and Oversight of DoD Special Access Programs (SAPs); DoD 5200.1–R, Information Security Program; DIA Manual 56–1, 31 Special Program Management; and E.O. 9397 (SSN).

PURPOSE(S):

To maintain a database of Intelligence Community personnel granted access to specific information within the Intelligence Community.

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 Department of Defense as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' set forth at the beginning of the DIA's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and electronic storage media.

RETRIEVABILITY:

Individual's name and Social Security Number (SSN).

SAFEGUARDS:

Physical entry is restricted by the use of guards, locks, and administrative procedures. Automated records are password controlled with system-generated, forced password-change protocols or equipped with ''Smart Card'' technology that requires the insertion of an embedded identification card and entry of a PIN.

RETENTION AND DISPOSAL:

Data will be maintained as long as users require access to respective databases.

SYSTEM MANAGER(S) AND ADDRESS:

Directorate for Information Management and Chief Information Officer, Defense Intelligence Agency, 200 MacDill Blvd, Washington, DC 20340–5100.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the DIA Privacy Office (DAN–1A), Defense Intelligence Agency, 200 MacDill Blvd, Washington, DC 20340–5100.

Requests should contain individual's full name, current address, telephone number, and Social Security Number (SSN).

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records, should address written inquiries to the DIA Privacy Official, Defense Intelligence Agency (DAN–1A), 200 MacDill Blvd, Washington, DC 20340–5100.

Requests should contain individual's full name, current address, telephone number, and Social Security Number (SSN).

CONTESTING RECORD PROCEDURES:

DIA's rules for accessing records, for contesting contents and appealing initial agency determinations are published in DIA Instruction 5400.001 ''Defense Intelligence Agency Privacy Program'' and DIA Instruction 5400.002, Freedom of Information Act.

RECORD SOURCE CATEGORIES:

Information provided by individuals requesting access and information derived from other databases to verify eligibility, such as security clearance level.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. E8–4373 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket No. USN–2008–0011]

Proposed Collection; Comment Request

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the *Paperwork Reduction Act of 1995*, the Naval Health Research Center, (NHRC), Department of the Navy announces a new proposed 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 May 5, 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 Commanding Officer, Naval Health Research Center, ATTN: Suzanne Hurtado, MPH, Code 163, 140 Sylvester Road, San Diego, CA 92106, or call at (619) 553–7806 (this is not a toll-free number).

Title and OMB Number: Evaluation of Young Marines Drug Education Program; OMB Control Number 0703–TBD.

Needs and Uses: The information collection requirement is necessary for the Naval Health Research Center to carry out the research study it has been tasked to perform. This research study will assess the effectiveness of a Marine Corps-sponsored youth development program, the Young Marines, in reducing drug use and promoting a healthy, drug-free lifestyle among its youth participants. The information collected will be used to describe how the program is affecting drug behaviors and related measures and will allow recommendations to be made to improve youth drug education. Respondents to this study will include youth, approximately ages 11 through 18 years, in the Young Marines program and Young Marine adult leaders.

Affected Public: Young Marines program participants and Young Marines adult leaders.

Annual Burden Hours: 1,046.

Number of Respondents: 1,325.

Responses per Respondent: 1 for most youth and all of the adult leaders; 2 for a subset of 250 youth.

Average Burden per Response: 45 minutes for youth; 20 minutes for adults.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

This information collection is necessary for the Naval Health Research Center (NHRC) to carry out the research study ''Evaluation of Young Marines Drug Education Program.'' Naval Health Research Center has been tasked by U.S. Marine Corps Community Services Substance Abuse Program to conduct

this evaluation. The Naval Health Research Center team will collect information about the youth's drug use, attitudes, and knowledge, as well as factors such as self-esteem by administering a voluntary paper-and-pencil survey to approximately 1,000 youth at regularly scheduled Young Marines meetings and by posting an online survey. Approximately 250 of these youth subjects will also complete an online, follow-up survey about three months later. Approximately 325 Young Marine adult unit leaders will be asked to complete a one-time, online survey about the drug education activities that their unit provides to their Program members. In all cases, consent will always be received prior to survey administration. The information collected will be used to describe how the Young Marines program is affecting drug behaviors and related measures and will allow recommendations to be made to improve youth drug education.

Dated: February 25, 2008.

Patricia L. Toppings,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. E8–4395 Filed 3–5–08; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before May 5, 2008.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: February 29, 2008.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Institute of Education Sciences

Type of Review: New.

Title: Feasibility and Conduct of an Impact Evaluation of Title I Supplemental Education Services.

Frequency: On occasion.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 50,009.

Burden Hours: 10,082.

Abstract: The No Child Left Behind Act (NCLB) requires districts with Title I schools that fall short of state standards for three years or more to offer supplemental educational services (SES) to their students from low-income families who attend these schools. SES are tutoring or other academic support services offered outside the regular school day by state-approved providers free of charge to eligible students. Parents can choose the specific SES provider from among a list approved to serve their area. The U.S. Department of Education has commissioned Mathematica Policy Research to evaluate the impact of SES on student achievement in up to nine school districts across the country. Findings of the study will not only inform national policy discussions about SES, but will also provide direct feedback to participating districts about the effectiveness of the SES offered to their students.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3634. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E8–4352 Filed 3–5–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Safe and Drug-Free Schools; Overview Information; Safe and Drug-Free Schools and Communities (SDFSC) Programs for Native Hawaiians; Notice Inviting Applications for New Awards for Fiscal Year (FY) 2008

Catalog of Federal Domestic Assistance (CFDA) Number: 84.186C.

Dates: Applications Available: March 6, 2008.

Deadline for Transmittal of Applications: April 21, 2008.

Deadline for Intergovernmental Review: June 19, 2008.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: SDFSC Programs for Native Hawaiians awards grants to organizations primarily serving and representing Native Hawaiians to plan, conduct, and administer programs to prevent or reduce violence, the use, possession and distribution of illegal drugs, or delinquency.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see Sections 4115(b)(1)(C)(i) and 4117(c)(1)of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7115 and 7117).

Absolute Priority: For FY 2008 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3) we consider only applications that meet this priority.

This priority is:

Projects to plan, conduct, and administer programs for Native Hawaiian youth to prevent or reduce violence, the use, possession and distribution of illegal drugs, or delinquency.

Definition: The following definition is from Section 4117 of the ESEA and applies to this competition:

Native Hawaiian means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Program Authority: 20 U.S.C. 7117.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 84, 85, 86, 97, 98, 99, and 299.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $579,518.

Contingent upon the availability of funds and the quality of applications, we may make additional awards later in FY 2008 and in FY 2009 from the list of unfunded applicants from this competition.

Estimated Range of Awards: $250,000–$300,000.

Estimated Average Size of Awards: $289,759.

Estimated Number of Awards: 2.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Organizations primarily serving and representing Native Hawaiians for the benefit of Native Hawaiians.

Note: In accordance with Section 4117(b) of the Safe and Drug-Free Schools and Communities Act (20 U.S.C. 7117(b)), the term ''Native Hawaiian'' means any individual any of whose ancestors were natives, prior to 1778, of the area that now comprises the State of Hawaii.

2. *Cost Sharing or Matching:* This competition does not require cost sharing or matching.

3. *Other:* (a) *Equitable Participation by Private School Children and Teachers:* Section 9501 of the (ESEA) (20 U.S.C. 7881), requires that SEAs, LEAs, or other entities receiving funds under the Safe and Drug-Free Schools and Communities Act provide for the equitable participation of private school children, their teachers, and other educational personnel in private schools located in areas served by the grant recipient. In order to ensure that grant program activities address the needs of private school children, applicants must engage in timely and meaningful consultation with private school officials during the design and development of the program. This consultation must take place before any decision is made that affects the opportunities of eligible private school children, teachers, and other educational personnel to participate.

In order to ensure equitable participation of private school children, teachers, and other educational personnel, an applicant must consult with private school officials on preventing or reducing violence, the use, possession and distribution of illegal drugs, or delinquency, and related issues for private schools in the applicant's service area.

(b) *Principles of Effectiveness:* Programs, activities and strategies implemented with funds awarded under this competition must meet the requirements of the principles of effectiveness described in section 4115(a) of the ESEA (20 U.S.C. 7115(a)).

(c) *Maintenance of Effort:* Section 9521 of the ESEA requires that LEAs may receive a grant only if the SEA finds that the combined fiscal effort per student or the aggregate expenditures of the LEA and the State with respect to the provision of free public education by the LEA for the preceding fiscal year was not less than 90 percent of the combined effort or aggregate expenditures for the second preceding fiscal year.

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet, or from the program office.

To obtain a copy via the Internet, use the following address: *http://www.ed.gov/fund/grant/apply/grantapps/index.html.*

To obtain a copy from the program office, contact: Pat Rattler, U.S. Department of Education, 400 Maryland Avenue, SW., room 3E210, Washington, DC 20202–6450. Telephone: (202) 260–1942 or by e-mail: *pat.rattler@ed.gov.*

If you use a Telecommunication Device for the Deaf (TDD), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the program contact person in this section.

2. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

3. *Submission Dates and Times:*

Applications Available: March 6, 2008.

Deadline for Transmittal of Applications: April 21, 2008.

Applications for grants under this competition may be submitted electronically using the *Grants.gov* Apply site (*Grants.gov*), or in paper format by mail or hand delivery. For information (including dates and times) about how to submit your application electronically, or in paper format, by mail or hand delivery, please refer to section IV. 6. *Other Submission Requirements* in this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: June 19, 2008.

4. *Intergovernmental Review:* This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. *Funding Restrictions:* We reference regulations outlining funding restrictions in the Applicable Regulations section in this notice.

6. *Other Submission Requirements:* Applications for grants under this competition may be submitted electronically or in paper format by mail or hand delivery.

a. *Electronic Submission of Applications.*

To comply with the President's Management Agenda, we are participating as a partner in the

Governmentwide *Grants.gov* Apply site. The Programs for Native Hawaiians program, CFDA Number 84.186C, is included in this project. We request your participation in *Grants.gov*.

If you choose to submit your application electronically, you must use the Governmentwide *Grants.gov* Apply site at *http://www.Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not e-mail an electronic copy of a grant application to us.

You may access the electronic grant application for Programs for Native Hawaiians competition at *http://www/Grants.gov*. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.186, not 84.186C).

Please note the following:

- Your participation in *Grants.gov* is voluntary.
- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not consider your application if it is date and time stamped by the *Grants.gov* system later than 4:30 p.m., Washington, DC time, on the application deadline date. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through Grants.gov.
- You should review and follow the Education Submission Procedures for submitting an application through Grants.gov that are included in the application package for this competition to ensure that you submit your application in a timely manner to the Grants.gov system. You can also find the Education Submission Procedures pertaining to Grants.gov at *http://e-Grants.ed.gov/help/GrantsgovSubmissionProcedures.pdf.*
- To submit your application via Grants.gov, you must complete all steps in the Grants.gov registration process (see *http://www.grants.gov/applicants/get_registered.jsp*). These steps include (1) registering your organization, a multi-part process that includes registration with the Central Contractor Registry (CCR); (2) registering yourself as an Authorized Organization Representative (AOR); and (3) getting authorized as an AOR by your organization. Details on these steps are outlined in the Grants.gov 3-Step Registration Guide (see *http://www.grants.gov/section910/Grants.govRegistrationBrochure.pdf*). You also must provide on your application the same D–U–N–S Number used with this registration. Please note that the registration process may take five or more business days to complete, and you must have completed all registration steps to allow you to submit successfully an application via Grants.gov. In addition you will need to update your CCR registration on an annual basis. This may take three or more business days to complete.
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you submit your application in paper format.
- If you submit your application electronically, you must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications. Please note that two of these forms—the SF 424 and the Department of Education Supplemental Information for SF 424—have replaced the ED 424 (Application for Federal Education Assistance).
- If you submit your application electronically, you must attach any narrative sections of your application as files in a .DOC (document), .RTF (rich text), or .PDF (Portable Document) format. If you upload a file type other than the three file types specified in this paragraph or submit a password-protected file, we will not review that material.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from Grants.gov an automatic notification of receipt that contains a Grants.gov tracking number. (This notification indicates receipt by Grants.gov only, not receipt by the Department.) The Department then will retrieve your application from Grants.gov and send a second notification to you by e-mail. This second notification indicates that the Department has received your application and has assigned your application a PR/Award number (an ED-specified identifying number unique to your application). We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the Grants.gov System: If you are experiencing problems submitting your application through Grants.gov, please contact the Grants.gov Support Desk, toll-free, at 1–800–518–4726. You must obtain a Grants.gov Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the Grants.gov system, we will grant you an extension until 4:30 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30 p.m., Washington, DC time, on the application deadline date, please contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice and provide an explanation of the technical problem you experienced with Grants.gov, along with the Grants.gov Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the Grants.gov system and that that problem affected your ability to submit your application by 4:30 p.m., Washington, DC time, on the application deadline date. The Department will contact you after a determination is made on whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the Grants.gov system. We will not grant you an extension if you failed to fully register to submit your application to Grants.gov before the application deadline date and time or if the technical problem you experienced is unrelated to the Grants.gov system.

b. *Submission of Paper Applications by Mail.*

If you submit your application in paper format by mail (through the U.S. Postal Service or a commercial carrier), you must mail the original and two copies of your application, on or before the application deadline date, to the Department at the applicable following address:

By mail through the U.S. Postal Service: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.186C), 400 Maryland Avenue, SW., Washington, DC 20202–4260 or

By mail through a commercial carrier: U.S. Department of Education, Application Control Center, Stop 4260, Attention: (CFDA Number 84.186C), 7100 Old Landover Road, Landover, MD 20785–1506.

Regardless of which address you use, you must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

If your application is postmarked after the application deadline date, we will not consider your application.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

c. *Submission of Paper Applications by Hand Delivery.* If you submit your application in paper format by hand delivery, you (or a courier service) must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.186C), 550 12th Street, SW., Room 7041, Potomac Center Plaza, Washington, DC 20202–4260.

The Application Control Center accepts hand deliveries daily between 8 a.m. and 4:30 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

(1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245–6288.

V. Application Review Information

Selection Criteria: The selection criteria for this competition are from 34 CFR 75.210 and are listed in the application package.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notice (GAN). We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section in this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section in this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved application as part of your binding commitments under the grant.

3. *Reporting:* At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multi-year award, you must submit an annual performance report that provides the most current performance and financial expenditures information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to *http://www.ed.gov/fund/grant/apply/appforms/appforms.html.*

4. *Performance Measures:* The Secretary has established the following key performance measures for assessing the effectiveness of SDFSC Programs for Native Hawaiians:

(1) The percentage of students annually served by the grant who show a decrease in violent or disruptive behavior, or delinquency; and

(2) The percentage of students annually served by the Grant who show a decrease in the use of illegal drugs.

These measures constitute the Department's indicators of success for this program. Consequently, we advise an applicant for a grant under this program to give careful consideration to these measures in conceptualizing the approach and evaluation for its proposed project. Each grantee will be required to provide in its annual and final performance reports data about its progress in meeting these measures.

VII. Agency Contacts

FOR FURTHER INFORMATION CONTACT: Pat Rattler, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3E210, Washington, DC 20202–6450. Telephone: (202) 260–1942 or by e-mail: *pat.rattler@ed.gov.*

If you use a TDD, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Alternative Format: Individuals with disabilities can obtain this document and a copy of the application package in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII in this notice.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Date: February 29, 2008.

Deborah A. Price,

Assistant Deputy Secretary for Safe and Drug-Free Schools.

[FR Doc. E8–4369 Filed 3–5–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

National Mathematics Advisory Panel

AGENCY: U.S. Department of Education, National Mathematics Advisory Panel.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming meeting, including a public hearing, with members of the National Mathematics Advisory Panel. The notice also describes the functions of the Panel. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend. Due to scheduling difficulties, this notice is appearing in the **Federal Register** less than 15 days prior to the meeting date.

DATES: Thursday, March 13, 2008.

Time: 9 a.m.–10:45 a.m.

ADDRESSES: Longfellow Middle School, 2000 Westmoreland Street, Falls Church, Virginia 22043.

FOR FURTHER INFORMATION CONTACT: Tyrrell Flawn, Executive Director, National Mathematics Advisory Panel, 400 Maryland Avenue, SW., Washington, DC 20202; telephone: (202) 260–8354.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Panel was established by Executive Order 13398. The purpose of this Panel is to foster greater knowledge of and improved performance in mathematics among American students, in order to keep America competitive, support American talent and creativity, encourage innovation throughout the American economy, and help State, local, territorial, and tribal governments give the nation's children and youth the education they need to succeed.

The meeting will be held at the Longfellow Middle School in Falls Church, Virginia, on Thursday, March 13, 2008, 9 a.m.–10:45 a.m. The purpose of this open meeting is for the Panel to complete its work and to adopt the Final Report, which will, at a minimum, contain recommendations on improving mathematics education based on the best available scientific evidence. Individuals interested in attending the meeting are advised to register in advance to ensure space availability. Please contact Jennifer Graban at *Jennifer.Graban@ed.gov* by Wednesday, March 5, 2008.

This meeting will not include a public comment session, as the Panel will be adopting its Final Report. However, if you would like to provide comments to the Panel, please do so in written form, via e-mail at *NationalMathPanel@ed.gov* by Wednesday, March 5, 2008. Written comments will also be accepted at the meeting site. Please note that comments submitted to the National Mathematics Advisory Panel in any format are considered to be part of the public record of the Panel's deliberations, and will be posted on the Web site.

The Panel has submitted its Preliminary Report to the President, through the U.S. Secretary of Education. The Preliminary Report is available at *http://www.ed.gov/mathpanel.*

The meeting site is accessible to individuals with disabilities. Individuals who will need accommodations in order to attend the meeting, such as interpreting services, assistive listening devices, or materials in alternative format, should notify Jennifer Graban at *Jennifer.Graban@ed.gov* no later than Wednesday, March 5, 2008. We will attempt to meet requests for accommodations after this date, but cannot guarantee their availability.

Records are kept of all Panel proceedings and are available for public inspection at the staff office for the Panel, from the hours of 9 a.m. to 5 p.m., Monday through Friday.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/fedregister/index.html.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: February 29, 2008.

Margaret Spellings,

Secretary, U.S. Department of Education.

[FR Doc. E8–4319 Filed 3–5–08; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

February 28, 2008.

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC06–129–001.

Applicants: Capital Research and Management Company; AMCAP Fund, Inc.; American Balanced Fund, Inc.; American High-Income Trust; American Mutual Fund, Inc.; Capital Income Builder, Inc.; Capital World Bond Fund, Inc.; Capital World Growth and Income Fund, Inc.; EuroPacific Growth Fund; Fundamental Investors, Inc.; New Perspective Fund, Inc.; New World Fund, Inc.; SMALLCAP World Fund, Inc.; The Bond Fund of America, Inc.; The Income Fund of America, Inc.; The Investment Company of America; The New Economy Fund; Washington Mutual Investors Fund, Inc.; American Funds Insurance Series Endowment; Capital International Global Discovery; Capital International Global Equity; Capital International Funds-European Eq; Capital International Funds-U.S. Equity; The Growth Fund of America, Inc.

Description: Capital Research and Management Company requests an amendment to the Order, (2006 Order), previously issued by FERC in Capital Research and Management Company *et al.* in their application.

Filed Date: 02/22/2008.

Accession Number: 20080226–0143.

Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: EC08–47–000.

Applicants: Genesee Power Station Ltd. Partnership.

Description: Application for authorization for disposition of jurisdictional facilities and request for expedited action re Genesse Power Station LP.

Filed Date: 02/25/2008.

Accession Number: 20080227–0117.

Comment Date: 5 p.m. Eastern Time on Monday, March 17, 2008.

Docket Numbers: EC08–48–000.

Applicants: Grayling Generating Station Limited Partnership.

Description: Application for authorization for disposition of jurisdictional facilities and request for expedited action re Grayling Generating Station LP.

Filed Date: 02/25/2008.

Accession Number: 20080227–0119.

Comment Date: 5 p.m. Eastern Time on Monday, March 17, 2008.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG08–42–000.
Applicants: Invenergy Nelson LLC.
Description: Invenergy Nelson LLC submits its Notice of Self Certification of Exempt Wholesale Generator Status.
Filed Date: 02/22/2008.
Accession Number: 20080226–0144.
Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: EG08–43–000.
Applicants: Turkey Track Wind Energy LLC.
Description: Turkey Track Energy Wind LLC submits its Notice of Self-Certification of Exempt Wholesale Generator Status.
Filed Date: 02/26/2008.
Accession Number: 20080228–0103.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 18, 2008.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER00–3614–007; ER06–1351–002.
Applicants: BP Energy Company; BP West Coast Products LLC;
Description: BP Energy Company *et al.* supplements their January 30th notification of change in status in response to FERC's Staff's inquiry.
Filed Date: 02/22/2008.
Accession Number: 20080227–0069.
Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER01–1363–009; ER96–25–031.
Applicants: Coral Energy Management, LLC.
Description: Coral Power, LLC *et al* submits a supplement to its 12/3/07 Notice of Change in Status.
Filed Date: 02/22/2008.
Accession Number: 20080227–0122.
Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER03–478–017; ER06–200–010; ER07–254–002; ER03–1326–010; ER07–460–001; ER05–534–011; ER05–365–011; ER05–1262–009; ER06–1093–005; ER03–296–013; ER01–3121–012; ER02–418–011; ER03–416–014; ER05–332–011; ER07–287–004; ER07–242–004; ER03–951–013; ER04–94–011; ER02–417–011; ER07–1378–001; ER05–1146–011; ER05–481–011; ER07–240–005; ER07–195–002; ER02–2085–006.
Applicants: PPM Energy; Big Horn Wind Project LLC; Casselman Windpower, LLC; Colorado Green Holdings, LLC; Dillon Wind LLC; Eastern Desert Power LLC; Elk River Windfarm LLC; Flat Rock Windpower LLC; Flat Rock Windpower II LLC; Flying Cloud Power Partners, LLC; Klamath Energy LLC; Klamath Generation LLC; Klondike Wind Power LLC; Klondike Wind Power II LLC; Klondike Wind Power III LLC; MinnDakota Wind LLC; Moraine Wind LLC; Mountain View Power Partners III, LLC; Phoenix Wind Power LLC; Providence Heights Wind, LLC; Shiloh I Wind Project LLC; Trimont Wind I LLC; Twin Buttes Wind LLC; Locust Ridge Wind Farm, LLC; Northern Iowa Windpower LLC.
Description: Iberdrola Companies submits corrected tariff sheets, Original Sheet 1 to FERC Electric Tariff, Second Revised Volume 1.
Filed Date: 02/22/2008.
Accession Number: 20080227–0065.
Comment Date: 5 p.m. Eastern Time on Friday, March 14, 2008.

Docket Numbers: ER05–1202–004; ER05–1262–013; ER06–1093–009; ER06–1122–002.
Applicants: Blue Canyon Windpower II LLC; Flat Rock Windpower LLC; Flat Rock Windpower II LLC; High Trail Wind Farm, LLC.
Description: Blue Canyon Windpower II, LLC *et al.* submits a Notice of Non-Material Change in Status.
Filed Date: 02/26/2008.
Accession Number: 20080228–0101.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 18, 2008.

Docket Numbers: ER06–864–009; ER06–1543–006; ER02–1785–014.
Applicants: Bear Energy LP; Brush Cogeneration Partners; Thermo Cogeneration Partnership LP.
Description: Bear Energy LP *et al.* submits a Notification of non-material Change in Status.
Filed Date: 02/25/2008.
Accession Number: 20080227–0111.
Comment Date: 5 p.m. Eastern Time on Monday, March 17, 2008.

Docket Numbers: ER08–67–001.
Applicants: Ameren Services Company.
Description: Union Electric Company submits a report concerning refunds provided to the City of Farmington, Missouri.
Filed Date: 01/28/2008.
Accession Number: 20080130–0077.
Comment Date: 5 p.m. Eastern Time on Monday, March 10, 2008.

Docket Numbers: ER08–234–002.
Applicants: EWO Marketing, LP.
Description: EWO Marketing LP submits a refund report related to the refund ordered by FERC.
Filed Date: 02/12/2008.
Accession Number: 20080213–0086.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 4, 2008.

Docket Numbers: ER08–444–002.
Applicants: NSTAR Electric Company.
Description: NSTAR Electric Co. submits an amendment to the Notice of Succession and Revised Market-Based Rate Tariff pursuant to Order 697.
Filed Date: 02/25/2008.
Accession Number: 20080227–0110.
Comment Date: 5 p.m. Eastern Time on Monday, March 17, 2008.

Docket Numbers: ER08–491–001.
Applicants: The Empire District Electric Company.
Description: The Empire District Electric Company submits revised notices of cancellation of Service Agreement 1 *et al.* under FERC Electric Tariff, Original Volume 2 in accordance with Order 614.
Filed Date: 02/25/2008.
Accession Number: 20080227–0109.
Comment Date: 5 p.m. Eastern Time on Monday, March 17, 2008.

Docket Numbers: ER08–514–001.
Applicants: Arizona Public Service Company.
Description: Uncontested Motion Extension of Time of Arizona Public Service Company.
Filed Date: 02/19/2008.
Accession Number: 20080219–5039.
Comment Date: 5 p.m. Eastern Time on Monday, March 24, 2008.

Docket Numbers: ER08–546–000.
Applicants: Southern California Edison Company.
Description: Southern California Edison Company submits Revised Rate Schedule Sheets 207 *et al.* reflecting a revision to the rates charged for transmission service etc.
Filed Date: 02/08/2008.
Accession Number: 20080225–0293.
Comment Date: 5 p.m. Eastern Time on Monday, March 10, 2008.

Docket Numbers: ER08–597–000.
Applicants: Commonwealth Edison Company.
Description: Commonwealth Edison Co. submits an cancellation of the executed Interconnection Agreement 729.
Filed Date: 02/26/2008.
Accession Number: 20080227–0107.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 18, 2008.

Docket Numbers: ER08–598–000.
Applicants: Equilon Enterprises, LLC.
Description: Equilon Enterprises, LLC submits a notice of cancellation of its market-based rate tariff originally accepted by FERC on May 22, 2006.
Filed Date: 02/26/2008.
Accession Number: 20080228–0102.
Comment Date: 5 p.m. Eastern Time on Tuesday, March 18, 2008.

Any person desiring to intervene or to protest in any of the above proceedings

must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(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.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. E8–4310 Filed 3–5–08; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2007–0281; FRL–8538–5]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Prevention of Significant Deterioration and Nonattainment New Source Review (Final Rule for Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$); EPA ICR No. 1230.21; OMB Control No. 2060–0003

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to revise an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before April 7, 2008.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2007–0281, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket and Information Center, Mail Code 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Mr. Raghavendra (Raj) Rao, Air Quality Policy Division (C504–03), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–3195; fax number: (919) 541–5509; e-mail address: *rao.raj@epa.gov;* or Mr. Dan deRoeck, at the same address, telephone 919–541–5593, or e-mail at *deroeck.dan@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 18, 2007 (72 FR 28041), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no substantive comments during the comment period. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2007–0281, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The EPA/DC Public Reading Room is open from 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Prevention of Significant Deterioration and Nonattainment New Source Review (Final Rule for Implementation of the New Source Review (NSR) Program for Particulate Matter Less Than 2.5 Micrometers ($PM_{2.5}$)).

ICR numbers: EPA ICR No. 1230.21, OMB Control No. 2060–0003.

ICR Status: This ICR is for a revision to an existing, approved information collection activity. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control

numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The major New Source Review (NSR) program is a preconstruction review and permitting program for new major sources of air pollutants and major modifications at existing major sources. The program is required under parts C and D of title I of the Clean Air Act. The types of information collection activities associated with the major NSR program are those necessary for the preparation and submittal of construction permit applications (by major sources) and the issuance of final permits (by the State and local regulatory agencies or ''reviewing authorities''). For EPA to carry out its required oversight function of reviewing construction permits and assuring adequate implementation of the program, it must have available to it information on proposed construction and modifications. The major NSR rule changes addressed in this ICR add $PM_{2.5}$ and its precursors to the list of pollutants that must be addressed in a major NSR permit action, but do not otherwise change the requirements of the program.

Burden Statement: The public reporting and recordkeeping burden for this collection of information is estimated to increase by an average of 52 hours per major NSR permit over the currently approved level of 668 hours per permit. The annual burden for reviewing authorities to administer a major NSR program is estimated to increase by an average of 144 hours over the currently approved level of 1,117 hours per year.

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

Respondents/Affected Entities: Entities potentially affected by this action are major sources of air pollutants that emit $PM_{2.5}$ and must apply for and obtain a preconstruction permit under the major NSR program. In addition, State and local air reviewing authorities who administer the major NSR program are potentially affected entities.

Estimated Number of Respondents: 753 major NSR permits per year obtained by sources; 112 State and local reviewing authorities.

Frequency of Response: On occasion.

Estimated Increase in Annual Hour Burden: The incremental increase in annual burden estimated to result from the revisions to the major NSR regulations totals 38,875 hours for sources and 16,107 hours for reviewing authorities. The currently approved ICR for the entire NSR program (major and minor) includes 5,851,126 for sources and reviewing authorities.

Estimated Increase in Annual Cost: The incremental increase in annual costs attributable to the major NSR rule revisions is about $4,268,991 for sources, which includes an estimated labor cost of $2,546,313 million, an estimated O&M cost of $1,722,678, and no capital costs.

The incremental increase in annual costs attributable to the major NSR rule revisions for reviewing authorities is $701,152 in labor costs and no capital or O&M costs.

Dated: February 28, 2008.

Sara Hisel-McCoy,

Director, Collection Strategies Division.

[FR Doc. E8–4348 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8539–6]

California State Motor Vehicle Pollution Control Standards; Notice of Decision Denying a Waiver of Clean Air Act Preemption for California's 2009 and Subsequent Model Year Greenhouse Gas Emission Standards for New Motor Vehicles

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Under section 209(b) of the Clean Air Act, as amended, 42 U.S.C. 7543(b), the Environmental Protection Agency denies the California Air Resources Board's request for a waiver of the Clean Air Act's prohibition on adopting and enforcing its greenhouse gas emission standards as they affect 2009 and later model year new motor vehicles. This decision is based on the Administrator's finding that California does not need its greenhouse gas standards for new motor vehicles to meet compelling and extraordinary conditions.

DATES: Petitions for review must be filed by May 5, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2006–0173. All documents and public comments in the docket are listed on the *www.regulations.gov* Web site. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air and Radiation Docket in the EPA Headquarters Library, EPA West Building, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744. The Air and Radiation Docket and Information Center's Web site is *http://www.epa.gov/oar/docket.html.* The electronic mail (e-mail) address for the Air and Radiation Docket is: *a-and-r-Docket@epa.gov,* the telephone number is (202) 566–1742, and the Fax number is (202) 566–9744.

FOR FURTHER INFORMATION CONTACT: Specific questions may be addressed to David Dickinson, Office of Transportation and Air Quality, Compliance and Innovative Strategies Division (6405J), EPA, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone: (202) 343–9256, e-mail: *dickinson.david@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Finding

In this decision, I find that the California Air Resources Board's (CARB's) amendments to title 13, California Code of Regulations (CCR), sections 1900 and 1961, and a new section 1961 for its Passenger Cars, Light-Duty Trucks, and Medium-Duty Vehicles, relating to greenhouse gases (GHGs), are not needed to meet compelling and extraordinary conditions. While I recognize that global climate change is a serious challenge,[1] I have concluded that section 209(b) was intended to allow California to promulgate state standards applicable to emissions from new motor vehicles to

[1] This document does not reflect, and nothing in this document should be construed as reflecting, my judgment regarding whether emissions of GHGs from new motor vehicles or engines cause or contribute to air pollution ''which may reasonably be anticipated to endanger public health or welfare,'' which is a separate question involving different statutory provisions and criteria; nor should it be construed as reflecting my judgment regarding any issue relevant to the determination of this question.

address pollution problems that are local or regional. I do not believe section 209(b)(1)(B) was intended to allow California to promulgate state standards for emissions from new motor vehicles designed to address global climate change problems; nor, in the alternative, do I believe that the effects of climate change in California are compelling and extraordinary compared to the effects in the rest of the country. Based on this finding, pursuant to section 209(b)(1) of the Clean Air Act (Act), CARB's waiver request for its GHG standards for new motor vehicles must be denied. Because my finding regarding section 209(b)(1)(B) must, and is sufficient to, result in a denial of California's waiver request, it is unnecessary for me to determine whether the criteria for denial of a waiver under sections 209(b)(1)(A) and (C) have been met. I therefore will not address these criteria in this decision.

II. Background

A. California's GHG Program for New Motor Vehicles

California's GHG program for new motor vehicles is included as part of its second generation low-emission vehicle program known as LEV II. EPA previously issued a waiver for the LEV II program and also issued a waiver for CARB's zero-emission vehicle program (known as ZEV) through the 2011 model year. By Resolution 04–28 CARB approved the GHG program for motor vehicles on September 24, 2004 and California's Office of Administrative Law approved the regulations on September 15, 2005.

CARB's regulations and incorporated test procedures control certain greenhouse gas emissions from two categories of new motor vehicles—passenger cars and the lightest trucks (PC and LDT1) and heavier light-duty trucks and medium-duty passenger vehicles (LDT2 and MDPV). The regulations add four new greenhouse gas air emissions (carbon dioxide (CO_2), methane (CH_4), nitrous oxide (N_2O), and hydrofluorocarbons (HFCs)) to California's existing regulations for criteria and criteria-precursor pollutants, along with air toxic contaminants. The regulations establish a declining fleet average emission standard for these gases, with separate standards for each of the two categories of passenger vehicles noted above. CARB sets the declining standards for manufacturers into two phases: Near-term standards phased in from 2009 through 2012, and mid-term standards, phased in from 2013 through 2016.

B. EPA's Consideration of CARB's Request

By letter dated December 21, 2005, CARB submitted a request seeking a waiver of Section 209(a)'s prohibition for its GHG motor vehicle standards.[2] On February 21, 2007, EPA Acting Assistant Administrator for Air and Radiation Bill Wehrum notified the Executive Officer of CARB that the timing of EPA's consideration of the GHG waiver request was related to the then-pending *Massachusetts* v. *EPA* case before the United States Supreme Court. EPA believed that the decision and opinion in that case could potentially be relevant to issues EPA may address in the context of the GHG waiver proceeding. As stated in the February 21, 2007 letter EPA notified CARB's Executive Officer that it would proceed with the waiver request after the Supreme Court decision was issued.[3] The Supreme Court issued its decision for *Massachusetts* v. *EPA* on April 2, 2007, finding among other things that EPA has authority to regulate emissions of GHGs from new motor vehicles under section 202(a) of the Act, if in the Administrator's judgment such emissions cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare (549 U.S. __, 127 S.Ct. 1438).

On April 30, 2007, a **Federal Register** notice was published announcing an opportunity for hearing and comment on CARB's request, including a public hearing scheduled for May 22, 2007, in Washington, DC and a written comment period with a deadline of June 15, 2007.[4] On May 10, 2007, an additional **Federal Register** notice was published announcing an additional public hearing for May 30, 2007, in Sacramento, CA with no change in the comment period deadline of June 15, 2007.[5] EPA subsequently conducted the two public hearings on May 22, 2007 and May 30, 2007. The written comment period closed on June 15, 2007.

On several occasions EPA received requests to extend or re-open the comment period; however the Agency did not extend the June 15, 2007 deadline. The Agency did, however, indicate that consistent with past waiver practice, it would continue, as appropriate, to communicate with any stakeholders in the waiver process after the comment period ended and that it would continue to evaluate any comments submitted after the close of the comment period to the extent practicable.[6] By letter dated June 21, 2007, I informed Governor Schwarzenegger that I intended to make a decision on the state's request by the end of the year.[7] By letter dated December 19, 2007 I notified Governor Schwarzenegger that EPA would be denying the waiver and that I had instructed my staff to draft the appropriate documents setting forth the rationale for the denial in further detail.[8]

III. Analysis of Preemption Under the Clean Air Act

A. Clean Air Act

Section 209(a) of the Act provides:

No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if

[2] Section 209(a) of the Act provides: No State or any political subdivision thereof shall adopt or attempt to enforce any standard relating to the control of emissions from new motor vehicles or new motor vehicle engines subject to this part. No State shall require certification, inspection or any other approval relating to the control of emissions from any new motor vehicle or new motor vehicle engine as condition precedent to the initial retail sale, titling (if any), or registration of such motor vehicle, motor vehicle engine, or equipment.

[3] Docket entry EPA–HQ–OAR–2006–0173–0002.

[4] 72 FR 21260 (April 30, 2007).

[5] 72 FR 26626 (May 10, 2007)

[6] EPA denied these requests by letters to the requestors on June 8, 2007 (see EPA–HQ–OAR–0173–1236, EPA–HQ–OAR–0173–1237, EPA–HQ–OAR–0173–1238, and EPA–HQ–OAR–0173–1239; by letter on August 17, 2007 (see EPA–HQ–OAR–0173–3604); and by letters on November 6, 2007 (see EPA–HQ–OAR–0173–3655, EPA–HQ–OAR–0173–3656, and EPA–HQ–OAR–0173–3657).

[7] Docket entry EPA–HQ–OAR–0173–5847.

[8] Docket entry EPA–HQ–OAR–0173–4702. This letter merely informed the Governor of California that EPA ''will be denying the waiver'' based on a finding that California does not have a ''need to meet compelling and extraordinary conditions.'' As noted in the letter, EPA staff were instructed to draft the appropriate documents setting forth the rationale in further detail for why under this second criteria under the Clean Air Act the waiver would be denied. Both the intent and nature of the letter clearly reflect that the letter was not the Agency's final action and that EPA would be issuing a separate final decision (to be signed by the Administrator); therefore, today's decision is EPA's final decision on California's waiver request and represents the Agency's final agency action. The State of California has petitioned the United States Court of Appeals for the Ninth Circuit for review of EPA's December 19, 2007 communication based on its view that such communication was final agency action. (*See State of California* v. *United States Environmental Protection Agency,* No. 08–70011). As explained in EPA's Motion to Dismiss California's petition (and other joined petitions), the Agency's final agency action that is subject to judicial review is the final signed decision document—which is today's action. To the extent any court finds that the December 19, 2007 letter was final action, today's final decision supersedes and replaces the December 19, 2007 communication to California and reflects EPA's entire decision to deny the waiver.

any), or registration of such motor vehicle, motor vehicle engine, or equipment.

Section 209(b)(1) of the Act requires the Administrator, after an opportunity for public hearing, to waive application of the prohibitions of section 209(a) for any State that has adopted standards (other than crankcase emission standards) for the control of emissions from new motor vehicles or new motor engines prior to March 30, 1966,[9] if the State determines that the State standards will be, in the aggregate, at least as protective of public health and welfare as applicable Federal standards. However, no such waiver shall be granted if the Administrator finds that: (A) the protectiveness determination of the State is arbitrary and capricious; (B) the State does not need such State standards to meet compelling and extraordinary conditions; or (C) such State standards and accompanying enforcement procedures are not consistent with section 202(a) of the Act.

B. Deference

CARB maintains that EPA's previous waiver practice of leaving decisions on ambiguous and controversial matters of public policy to California's judgment applies equally if not more so to policy considerations over the treatment of GHG emissions. It notes nothing in section 209(b) has changed the express Congressional intent for California to lead and experiment with cutting edge emission-reduction technologies and, just as California paved the way for advances in reducing criteria air pollutants, so does California's GHG regulation advance the reduction in climate-changing GHG emissions.

The Alliance of Automobile Manufacturers (the Alliance) discusses EPA's historical practice and its ''highly deferential standard of review.'' [10] In its June 5, 2007 comments the Alliance sets out examples of EPA's deference toward California's regulations as demonstration of EPA's limited scope of review. However, the Alliance claims that CARB's GHG regulation has a qualitatively new objective of addressing global climate change. Because of this, the Alliance believes that EPA must make its own independent judgment, with no deference to California, on two questions arising under section 209(b)(1)(B)—specifically whether California needs its own state-specific regulations and whether California's particular regulations will actually address or meet the perceived need.

With respect to the deference due to California's policy judgments on the best way to protect the public health and welfare of its residents, EPA is not addressing or changing its traditional interpretation and practice concerning deference to California's judgment with respect to section 209(b)(1)(A) and (C). EPA's role in applying the second criterion is not to substitute its judgment for California's on the importance, value, or benefit for California that might be derived from a specific set of GHG standards and the related reductions, assuming it is otherwise appropriate for California to adopt its own GHG standards.

At the same time, as discussed below, EPA's interpretation of section 209(b)(1)(B) looks at the nature of GHGs as an air pollution problem, and in the alternative looks at the impacts of global climate change in California in comparison to the rest of the nation as a whole. Applying this interpretation to this waiver application calls for EPA to exercise its own judgment to determine whether the air pollution problem at issue—elevated concentrations of GHGs—is within the confines of state air pollution programs covered by section 209(b)(1)(B). EPA's evaluation relates to the limits of California's authority to regulate GHG emissions from new motor vehicles, not to the particular regulatory provisions that California wishes to enforce. California has its own views on this issue, but EPA does not believe it is required or appropriate to give deference to California of the statutory interpretation of the Clean Air Act, including the issue of the confines or limits of state authority established by section 209(b)(1)(B). This does not change EPA's consistent view that within such confines it should give deference to California's policy judgments, as it has in past in waiver decisions, on the mechanism used to address local and regional air pollution problems.

C. Burden of Proof

In *Motor and Equip. Mfrs. Assoc.* v. *EPA*, 627 F.2d 1095 (D.C. Cir. 1979) (*MEMA I*), the U.S. Court of Appeals stated that the Administrator's role in a section 209 proceeding is to:

> consider all evidence that passes the threshold test of materiality and * * * thereafter assess such material evidence against a standard of proof to determine whether the parties favoring a denial of the waiver have shown that the factual circumstances exist in which Congress intended a denial of the waiver.[11]

The court in *MEMA I* considered the standards of proof under section 209 for the two findings necessary to grant a waiver for an accompanying enforcement procedure (as opposed to the standards themselves): (1) Protectiveness in the aggregate and (2) consistency with section 202(a). The court instructed that, ''the standard of proof must take account of the nature of the risk of error involved in any given decision, and it therefore varies with the finding involved. We need not decide how this standard operates in every waiver decision.'' [12]

The court upheld the Administrator's position that, to deny a waiver, ''there must be 'clear and compelling evidence' to show that proposed procedures undermine the protectiveness of California's standards.'' [13] The court noted that this standard of proof ''also accords with the Congressional intent to provide California with the broadest possible discretion in setting regulations it finds protective of the public health and welfare.'' [14] With respect to the consistency finding, the court did not articulate a standard of proof applicable to all proceedings, but found that the opponents of the waiver were unable to meet their burden of proof even if the standard were a mere preponderance of the evidence.

Although *MEMA I* addressed enforcement procedures and did not explicitly consider the standards of proof under section 209 concerning a waiver request for standards, nothing in the opinion suggests that the court's analysis would not apply with equal force to such determinations. Both before and after *MEMA I*, EPA's past waiver decisions have consistently made clear that:

> [E]ven in the two areas concededly reserved for Federal judgment by this legislation—the existence of 'compelling and extraordinary' conditions and whether the standards are technologically feasible—Congress intended that the standards of EPA review of the State decision to be a narrow one.[15]

Finally, opponents of the waiver bear the burden of showing that California's waiver request is inconsistent with section 202(a). As found in *MEMA I*, this obligation rests firmly with opponents of the waiver in a 209 proceeding, holding that: ''[t]he language of the statute and its legislative history

[9] California is the only State which meets section 209(b)(1) eligibility criteria for obtaining waivers. *See e.g.*, S. Rep. No. 90–403, at 632 (1967).

[10] Docket Entry EPA–HQ–OAR–2006–0173–1519.1, at p. 3.

[11] *MEMA I*, 627 F.2d at 1122.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *See, e.g.*, 40 FR.23102–103 (May 28, 1975).

indicate that California's regulations, and California's determinations that they must comply with the statute, when presented to the Administrator are presumed to satisfy the waiver requirements and that the burden of proving otherwise is on whoever attacks them.'' [16]

The Administrator's burden, on the other hand, is to demonstrate that he has made a reasonable and fair evaluation of the information in the record in coming to the waiver request decision. As the court in *MEMA I* stated, ''here, too, if the Administrator ignores evidence demonstrating that the waiver should not be granted, or if he seeks to overcome that evidence with unsupported assumptions of his own, he runs the risk of having his waiver decision set aside as 'arbitrary and capricious.' '' [17] Therefore, the Administrator's burden is to act ''reasonably.'' [18]

IV. Discussion

A. Sections 209(b)(1)(A) and (C)

Under section 209(b) of the Clean Air Act, a waiver shall not be granted if the Administrator makes any one of the three findings in section 209(b)(1)(A), (B) and (C). As noted above and discussed in detail below, I am denying California's request for a waiver based on my finding that California does not need its motor vehicle GHG standards to meet compelling and extraordinary conditions. We received numerous comments regarding the criteria in sections 209(b)(1)(A) and (C). Because my finding regarding section 209(b)(1)(B) must, and is sufficient to, result in a denial of California's waiver request, it is unnecessary for me to determine whether the criteria for denial of a waiver under sections 209(b)(1)(A) and (C) have been met. I therefore will not address these criteria in this decision nor will I address the comments submitted regarding these criteria.

B. Additional Issues Raised by EPA's Federal Register Notice

In EPA's April 30, 2007 **Federal Register** Notice the Agency invited comment on three issues with regard to our review of this waiver request: (1) Given that the regulations referenced in the December 21, 2005, request letter relate to global climate change, should that have any effect on EPA's evaluation of the criteria, and if so, in what manner?; (2) whether the United States Supreme Court decision in *Massachusetts* v. *EPA*, issued on April 2, 2007, regarding the regulation of emissions of greenhouse gases from new motor vehicles under Title II of the Clean Air Act is relevant to EPA's evaluation of the three criteria, and if so, in what manner?; and (3) whether the Energy Policy and Conservation Act (EPCA) fuel economy provisions are relevant to EPA's consideration of this petition or to CARB's authority to implement its vehicle GHG regulations?

With regard to the first two issues, the responses to the questions are generally subsumed into the discussion of section 209(b)(1)(B) below, to the extent they are relevant to my consideration of that criterion. With regard to the third issue, my decision is based solely on the statutory criteria in section 209(b) of the Act and this decision does not attempt to interpret or apply EPCA or any other statutory provision.[19]

C. Does California Need Its GHG Standards To Meet Compelling and Extraordinary Conditions?

1. It Is Appropriate To Apply This Criterion to California's GHG Standards Separately, as Compared to California's Motor Vehicle Program as a Whole

Under section 209(b)(1)(B) of the Clean Air Act, the Administrator may not grant a waiver if he finds that the ''State does not need such State standards to meet compelling and extraordinary conditions.'' California's submissions state that EPA has in the past recognized California's unique needs when reviewing waiver requests. California states that the relevant inquiry is whether California needs its own motor vehicle emissions control program to meet compelling and extraordinary conditions, not whether any given standard is needed to meet compelling and extraordinary conditions related to that air pollution problem. On the other hand, several commenters opposing the waiver suggest EPA's determination should be based on whether California needs its greenhouse gas standards in particular to meet compelling and extraordinary conditions, saying that a proposed set of standards must be linked to compelling and extraordinary conditions. These commenters suggest that the Act requires EPA to look at the particular ''standards'' at issue, not the program.

I find that it is appropriate to review whether California needs its GHG standards to meet compelling and extraordinary conditions separately from the need for the remainder of California's new motor vehicle program. I base this decision on the fact that California's GHG standards are designed to address global climate change problems that are different from the local pollution problems that California has addressed previously in its new motor vehicle program. The climate change problems are different in terms of the distribution of the pollutants and the effect of local factors, including the local effect of motor vehicle emissions as differentiated from other GHG emissions worldwide on the GHG concentrations in California.

This waiver decision represents the first instance of EPA applying the section 209(b)(1)(B) criterion to a California waiver request for a fundamentally global air pollution problem. Although EPA's review of this criterion has typically been cursory due to California needing its motor vehicle emission program due to fundamental factors leading to local and regional air pollution problems (as discussed below), it is appropriate in this case to carefully review the purpose of section 209(b)(1)(B) when applying it to the new circumstance of California's intent to regulate greenhouse gases. By doing so EPA gives meaning to Congress's decision to include this provision in section 209(b).[20]

a. EPA Practice in Previous Waivers

In past waivers that addressed local or regional air pollution, EPA has interpreted section 209(b)(1)(B) as looking at whether California needs a separate motor vehicle program to meet compelling and extraordinary conditions. Under this approach EPA does not look at whether the specific standards at issue are needed to meet compelling and extraordinary conditions related to that air pollutant. For example, EPA reviewed this issue in detail with regard to particulate matter in a 1984 waiver decision.[21] In that waiver proceeding, California argued that EPA is restricted to considering whether California needs its own motor vehicle program to meet compelling and extraordinary conditions, and not whether any given standard is necessary to meet such conditions. Opponents of

[16] *MEMA I*, 627 F.2d at 1121.

[17] *Id.* at 1126.

[18] *Id.* at 1126.

[19] EPA notes that there are two recent U.S. District Court decisions recognizing that California GHG standards are preempted under section 209(a) of the Clean Air Act. These cases do not address the issue of whether it is appropriate for EPA to grant a waiver under section 209(b) of the Clean Air Act, including the second criterion of section 209(b)(1), which is the subject of today's decision. *See Central Valley Chrysler-Jeep* v. *Goldstene*, 2007 WL 437878 (ED Cal Dec. 11, 2007); *Green Mountain Chrysler* v. *Crombie*, 508 F.Supp. 2nd 295 (D. Vt. 2007).

[20] *See United States* v. *Menashe*, 348 U.S. 528, 538–39, 75 S.Ct. 513, 520 (1955) (courts must give effect to every word, clause, and sentence of a statute).

[21] *See* 49 FR 18887 (May 3, 1984).

the waiver in that proceeding argued that EPA was to consider whether California needed these PM standards to meet compelling and extraordinary conditions related to PM air pollution.

The Administrator agreed with California that it was appropriate to look at the program as a whole in determining compliance with section 209(b)(1)(B). One justification of the Administrator was that many of the concerns with regard to having separate state standards were based on the manufacturers' worries about having to meet more than one motor vehicle program in the country, but that once a separate California program was permitted, it should not be a greater administrative hindrance to have to meet further standards in California. The Administrator also justified this decision by noting that the language of the statute referred to ''such state standards,'' which referred back to the use of the same phrase in the criterion looking at the protectiveness of the standards in the aggregate. He also noted that the phrase referred to standards in the plural, not individual standards. He considered this interpretation to be consistent with the ability of California to have some standards that are less stringent than the federal standards, as long as, per section 209(b)(1)(A), in the aggregate its standards were at least as protective as the federal standards.

The Administrator further stated that in the legislative history of section 209, the phrase ''compelling and extraordinary circumstances'' refers to ''certain general circumstances, unique to California, primarily responsible for causing its air pollution problem,'' like the numerous thermal inversions caused by its local geography and wind patterns. The Administrator also noted that Congress recognized ''the presence and growth of California's vehicle population, whose emissions were thought to be responsible for ninety percent of the air pollution in certain parts of California.'' [22] EPA reasoned that the term compelling and extraordinary conditions ''does not refer to the levels of pollution directly.'' Instead, the term refers primarily to the factors that tend to produce higher levels of pollution—''geographical and climatic conditions (like thermal inversions) that, when combined with large numbers and high concentrations of automobiles, create serious air pollution problems.''

The Administrator summarized that the question to be addressed in the second criterion is whether these ''fundamental conditions'' (i.e. the geographical and climate conditions and large motor vehicle population) that cause air pollution continued to exist, not whether the air pollution levels for PM were compelling and extraordinary, or the extent to which these specific PM standards will address the PM air pollution problem.

From this it can be seen that EPA's interpretation in the context of reviewing standards designed to address local or regional air pollution has looked at the local causes of the air pollution problems—geographic and climatic conditions that turn local emissions into air pollution problems, such as thermal inversions, combined with a large number of motor vehicles in California emitting in the aggregate large quantities of emissions. Under this interpretation, it is the common factors that cause or produce local or regional air pollution problems, and the particular contribution of local vehicles to such problems, that set California apart from other areas when Congress adopted this provision.

EPA's review of this criterion has usually been cursory and not in dispute, as the fundamental factors leading to air pollution problems—geography, local climate conditions (like thermal inversions), significance of the motor vehicle population—have not changed over time and over different local and regional air pollutants. These fundamental factors have applied similarly for all of California's air pollution problems that are local or regional in nature. California's circumstances of geography, climate, and motor vehicle population continue to show that it has compelling and extraordinary conditions leading to such local air pollution problems related to traditional pollutants.

To date, California's motor vehicle program has addressed air pollution problems that are generally local or regional in nature. The emission standards have been designed to reduce emissions coming from local vehicles, in circumstances where these local emissions lead to air pollution in California that will affect directly the local population and environment in California. In that context, EPA's prior interpretation has been and continues to be a reasonable and appropriate interpretation of the second criterion, and EPA is not reconsidering or changing it here for local or regional air pollution problems. The narrow question in this waiver proceeding is whether this interpretation is appropriate when considering motor vehicle standards designed to address a global air pollution problem and its effects, as compared to a local or regional air pollution problem that has close causal ties to conditions in California.

b. The Distinct Nature of Global Pollution as It Relates to Section 209(b)(1)(B)

The air pollution problem at issue here is elevated atmospheric concentrations of greenhouse gases, and the concern is the impact these concentrations have on global climate change and the effect of global climate change on California. In contrast to local or regional air pollution problems, the atmospheric concentrations of these greenhouse gases is basically uniform across the globe, based on their long atmospheric life and the resulting mixing in the atmosphere. The factors looked at in the past—the geography and climate of California, and the large motor vehicle population in California, which were considered the fundamental causes of the air pollution levels found in California—no longer perform the same causal function. The atmospheric concentration of greenhouse gases in California is not affected by the geography and climate of California. The long duration of these gases in the atmosphere means they are well-mixed throughout the global atmosphere, such that their concentrations over California and the U.S. are, for all practical purposes, the same as the global average. The number of motor vehicles in California, while still a notable percentage of the national total and still a notable source of GHG emissions in the State, bears no more relation to the levels of greenhouse gases in the atmosphere over California than any other comparable source or group of sources of greenhouse gases anywhere in the world. Emissions of greenhouse gases from California cars do not generally remain confined within California's local environment but instead become one part of the global pool of GHG emissions, with this global pool of emissions leading to a relatively homogenous concentration of greenhouse gases over the globe. Thus, the emissions of motor vehicles in California do not affect California's air pollution problem in any way different from emissions from vehicles and other pollution sources all around the world. Similarly, the emissions from California's cars do not just affect the atmosphere in California, but in fact become one part of the global pool of GHG emissions that affect the atmosphere globally and are distributed throughout the world, resulting in basically a uniform global atmospheric concentration.

[22] *Id.* at 18890.

Given the different, and global, nature of the pollution at issue, it is reasonable to find that the conceptual basis underlying the practice of considering California's motor vehicle program as a whole does not apply with respect to elevated atmospheric concentrations of GHGs. Therefore EPA has considered whether it is appropriate to apply this criterion in a different manner for this kind of air pollution problem; that is, a global air pollution problem. EPA continues to believe that it is appropriate to apply its historical practice to air pollution problems that are local or regional in nature, and is not suggesting the need to change such interpretation. The only question addressed is whether it is appropriate to employ a different practice to the very different circumstances present for this global air pollution problem.

c. Analysis of the Text and History of Section 209(b)(1)(B)

The text of section 209(b)(1)(B) does not limit EPA to its previous practice as the language of the statute is ambiguous on this point.[23] The second criterion refers to the need for ''such State standards.'' While it is clear that this language refers at least to all of the standards that are the subject of the particular waiver proceeding before the Administrator, it could reasonably be considered as referring either to the standards in the entire California program, the program for similar vehicles, or the particular standards for which California is requesting a waiver under the pending request.[24]

The 1984 PM waiver referred to the need for consistency with the ''in the aggregate'' finding, where Congress explicitly allowed California to adopt some standards that are less stringent than federal standards. This provision was specifically aimed at allowing California to adopt less stringent CO standards at a time when California wanted to adopt NO_X standards that were tighter than the federal NO_X standards, to address ozone problems. California judged that a relaxed CO standard would facilitate the technological feasibility of the desired more stringent NO_X standards. EPA noted that it would be inconsistent for Congress to allow EPA to look at each air pollutant separately for purposes of determining compelling and extraordinary conditions for that air pollution problem, and at the same time allow California to adopt standards for an air pollutant that were less stringent than the federal standards. While EPA continues to believe, for local or regional air pollution problems, that it is appropriate to look at California's program as a whole under the second criterion, allowing less stringent standards for some pollutants does not by itself mandate that this is the only possible interpretation of this criterion, especially when a global pollutant is at issue. For example, it is not implausible to think that even if EPA traditionally were to look at air pollution problems separately under the second criterion, EPA could readily determine that the less stringent CO standards should be considered with respect to the ozone problem when evaluating compelling and extraordinary conditions, not the CO problem, as ozone control was the purpose of the less stringent CO standard.[25]

The legislative history for section 209 also supports EPA's decision to examine the second criterion specifically in the context of global climate change. It indicates that Congress was moved to allow waivers of preemption for California motor vehicle standards based on the particular effects of local conditions in California on the air pollution problems in California. Congress discussed ''the unique problems faced in California as a result of its climate and topography.'' H.R. Rep. No. 728, 90th Cong. 1st Sess., at 21 (1967). See also Statement of Cong. Holifield (CA), 113 Cong. Rec. 30942–43 (1967). Congress also noted the large effect of local vehicle pollution on such local problems. See, e.g., Statement of Cong. Bell (CA) 113 Cong. Rec. 30946. In particular, Congress focused on California's smog problem, which is especially affected by local conditions and local pollution. See Statement of Cong. Smith (CA) 113 Cong. Rec. 30940–41 (1967); Statement of Cong. Holifield (CA), id. at 30942. See also, *MEMA I,* 627 F.2d 1095, 1109 (D.C. Cir., 1979) (noting the discussion of California's ''peculiar local conditions'' in the legislative history). Congress did not justify this provision based on pollution problems of a more national or global nature in justifying this provision.[26]

d. It Is Appropriate To Apply Section 209(b)(1)(B) Separately to GHG Standards

EPA believes that in the context of reviewing California GHG standards designed to address global climate change, it is appropriate to apply the second criterion separately for GHG standards. For this waiver proceeding EPA will not look at whether California continues to need its separate motor vehicle program in general to meet compelling and extraordinary conditions, as the core factors underlying that interpretation, which are related to local conditions, do not apply to the circumstances of this global air pollution problem.

The intent of Congress, in enacting section 209(b) and in particular Congress's decision to have a separate section 209(b)(1)(B), was to require EPA to specifically review whether California continues to have compelling and extraordinary conditions and the need for state standards to address those conditions. Thus I believe it is appropriate to review California's GHG standards separately from the remainder of its motor vehicle emission control program for purposes of section 209(b)(1)(B).[27]

In this context it is appropriate to give meaning to this criterion by looking at whether the emissions from California motor vehicles, as well as the local climate and topography in California, are the fundamental causal factors for the air pollution problem—elevated concentrations of greenhouse gases—apart from the other parts of California's motor vehicle program, which are intended to remediate different air pollution concerns. In the alternative, EPA has also considered the effects in California of this global air pollution problem in California in comparison to

[23] I note that because the statute is not clear with respect to the interpretation of this paragraph, my decision is entitled to deference and should be upheld as long as it is a permissible construction of the statute. *Chevron* v. *NRDC,* 467 U.S. 837, 843, 104 S. Ct. 2778, 2782 (1984). *See Engine Manufacturers Ass'n* v. *EPA,* 88 F.3d 1075, 1084 (DC Cir. 1996) (''the court need only find that the EPA's understanding of * * * [the] statute is a sufficiently rational one to preclude a court from substituting its judgment for that of EPA'' [internal quotes and citations omitted]).

[24] As noted above, EPA's 1984 waiver justified its review of California's program as a whole in part on the fact that section 209(b)(1)(B) referred to ''standards'' in the plural, rather than the singular. However, the fact that ''standards'' is plural does not in and of itself determine what set of standards is being reviewed, since many waiver requests encompass a set of standards, rather than a single standard. EPA notes that the words ''in the aggregate'' are not found in section 209(b)(1)(B).

[25] *See* ''Waiver for Standards for Model Year 1979 and later Passenger Cars, Certification Procedures and High Altitude Regulations'' at 43 FR 25729 (June 14, 1978).

[26] In reference to another argument made in the 1984 waiver, while the administrative costs of a program may not increase significantly based on the addition of new standards, there is still cost in the implementation of new standards, particularly in terms of changes in design necessitated by the new standards. In any case, this issue does not appear to be particularly relevant to the issue of whether California needs its standards to meet compelling and extraordinary conditions.

[27] I note that this does not represent a change in EPA practice regarding its previous waiver decisions, which addressed California standards designed to address local or regional pollution.

the rest of the country, again addressing the GHG standards separately from the rest of California's motor vehicle program. While the atmospheric concentrations of GHGs may be basically uniform around the globe, and GHG emissions distributed globally, EPA has considered whether the potential impact of climate change resulting from these concentrations will differ across geographic areas and if so whether the effects in California amount to compelling and extraordinary conditions. These alternative approaches are consistent with the text of the provision, and give it a meaning relevant to the air pollution circumstances at issue.

The appropriate criteria to apply therefore is whether the emissions of California motor vehicles, as well as California's local climate and topography, are the fundamental causal factors for the air pollution problem of elevated concentrations of greenhouse gases, and in the alternative whether the effect in California of this global air pollution problem amounts to compelling and extraordinary conditions.

2. Relationship of California Motor Vehicles, Climate, and Topography to Elevated Concentrations of Greenhouse Gases in California

I recognize that Congress' purpose in establishing the prohibition in section 209(a) and the waiver in 209(b) was to balance the benefit of allowing California significant discretion in deciding how to protect the health and welfare of its population, and that part of that benefit is allowing California to act as a laboratory for potential federal motor vehicle controls, with the burden imposed on the manufacturers of being subject to two separate motor vehicle programs. S. Rep. No. 403, 90th Cong. 1st Sess., at 32–33 (1967). It is clear that Congress intended this balance to be premised on a situation where California needs the state standards to meet compelling and extraordinary conditions. Thus, if I find that California does not need its state GHG standards to meet compelling and extraordinary conditions, it would not be appropriate to grant a waiver of preemption for California's state requirements.

Commenters opposed to EPA granting the waiver commented that California should be denied the waiver because separate state GHG standards are not needed to meet compelling and extraordinary conditions because there is no link between motor vehicle emissions in California and any alleged extraordinary conditions in California. These commenters state that while California spends a great deal of time discussing the effects of climate change in California (discussed below), California does not link these emission standards with such effects. They note that GHGs are not localized pollutants that can affect California's local climate or which are problematic due to California's specific topography. Instead, emissions from vehicles in California become mixed with the global emissions of GHG and affect global climate (including California's climate) in the same way that any GHG from around the world affect global (and California) climate conditions. They claim that Congress authorized EPA to grant a waiver of preemption only in cases where California standards were necessary to address peculiar local air quality problems. They claim that there can be no need for separate California standards if the standards are not aimed at, and do not redress, a California-specific problem.

California and others supporting the waiver counter that the reductions in GHG emissions from the standards are needed to reduce future impacts of climate change.

In previous waiver decisions, EPA was asked to waive preemption of standards regulating emissions that were local or regional in effect. Local air pollution problems are affected directly by local conditions in California, largely the emissions from motor vehicles in California in the context of the local climate and topography. As a result state standards regulating such local motor vehicle emissions will have a direct effect on the concentration of pollutants directly affecting California's environment. They are effective mechanisms to reduce the levels of local air pollution in California because local conditions are the primary cause of that kind of air pollution problem. In addition, reductions in emissions from motor vehicles that occur elsewhere in the United States will not have the same impact, and often will have no impact, on reducing the levels of local air pollution in California.

By contrast, GHGs emitted by California motor vehicles become part of the global pool of GHG emissions that affect concentrations of GHGs on a uniform basis throughout the world. The local climate and topography in California have no significant impact on the long-term atmospheric concentrations of greenhouse gases in California. Greenhouse gas emissions from vehicles or other pollution sources in other parts of the country and the world will have as much effect on California's environment as emissions from California vehicles. As a result, reducing emissions of GHGs from motor vehicles in California has the same impact or effect on atmospheric concentrations of GHGs as reducing emissions of GHGs from motor vehicles or other sources elsewhere in the US, or reducing emissions of GHGs from other sources anywhere in the world. California's motor vehicle standards for GHG emissions do not affect just California's concentration of GHGs, but affect such concentrations globally, in ways unrelated to the particular topography in California. Similarly, emissions from other parts of the world affect the global concentrations of GHGs, and therefore concentrations in California, in exactly the same manner as emissions from California's motor vehicles.

In Section IV.C.1, the previous section, EPA discussed the reasons for concluding that it is appropriate to look at California's GHGs standards separately, as compared to looking at its need for a motor vehicle program in general. These reasons also lead to the conclusion that California does not need these GHG standards to meet compelling and extraordinary conditions, without the need to compare impacts in California with impacts in the rest of the nation. The legislative history indicates that Congress' intent in the second criterion was to allow California to adopt new motor vehicle standards because of compelling and extraordinary conditions in California that were causally related to local or regional air pollution levels in California. These factors—climate, topography, large population of motor vehicles—cause these kinds of local or regional air pollution levels in California and because of this causal link, California's motor vehicle standards can be effective mechanisms to address these local problems. Reductions outside California would not be expected to be as effective as reductions from California's state motor vehicle standards in addressing California's local or regional air pollution problems, as there is not such a causal link between emissions outside California and local or regional air quality conditions inside California.

Some have argued that the decision of the Supreme Court in *Massachusetts* v. *EPA,* which determined that EPA has authority to regulate GHGs under section 202(a) of the Act, if EPA makes certain findings, requires that EPA grant a waiver of preemption under section 209(b). However, this argument does not address a critical difference between sections 202(a) and 209(b). Section 202(a) requires EPA to promulgate ''standards applicable to the emission of

any air pollutant from any class or classes of new motor vehicle * * * which in his judgment cause, or contribute to, air pollution which may reasonably be anticipated to endanger public health or welfare,'' without regard to the local, regional or national nature of the conditions. However, section 209(b)(1)(B) explicitly requires EPA to review whether California needs its state standards to meet compelling and extraordinary conditions. I believe that section 209(b) was intended to allow California to promulgate state standards applicable to emissions from new motor vehicles to address pollution problems that are local or regional. I believe that the inclusion of section 209(b)(1)(B) indicated Congress's desire not to allow waiver of preemption for California standards to reduce emissions related to global air pollution problems, as compared to local or regional air pollution. Section 209(b) was a compromise measure that allowed disruption of the introduction of new motor vehicles into interstate commerce by allowing California to have its own motor vehicle program, but limited this to situations where the air pollution problems have their basic cause, and therefore their solution, locally in California.[28] Congress allowed California to promulgate its own new motor vehicle standards based in part on the fact that California motor vehicles were such a large part of the local air pollution problem in California, *see e.g.*, Statement of Cong. Bell (CA) 113 Cong. Rec. 30946 and ''the unique problems faced in California as a result of its climate and topography.'' H.R. Rep. No. 728, 90th Cong. 1st Sess., at 21 (1967). California's ability to address these local or regional air pollution problems through local measures that reduce emissions of pollutants that directly affect California's own local environment, and the effectiveness of such measures to deliver emission reductions in the area that needs it, was the basis for allowing California the authority, unique among the states, to promulgate such state standards.

In contrast, Congress did not indicate any particular desire to allow California to promulgate local standards to deal with global air pollution like atmospheric concentrations of GHGs. California comments on the need for reductions in GHG atmospheric concentrations and therefore emissions, but the issue is not whether such reductions are needed but whether Congress intended them to be effectuated on a state basis by California through its new motor vehicle program. This type of pollution seems ill-fitted to Congress's intent to provide California with a method of handling its local air pollution concentrations and related problems with local emission control measures. I believe that standards regulating emissions of global pollutants like greenhouse gases were not part of the compromise envisioned by Congress in passing section 209(b).

California argues that increased temperatures associated with climate change would increase ozone levels in California, and that EPA has long recognized that California has compelling and extraordinary conditions concerning ozone, and therefore the waiver should be granted based on the impact of climate change on ozone levels. However, as discussed above, in specifying the need for standards to meet compelling and extraordinary conditions Congress had in mind the causal factors of local or regional air pollution problems, not the level of the air pollution per se. GHG emissions from California cars are not a causal factor for local ozone levels any more than GHG emissions from any other source of GHG emissions in the world. It is not the impact on ozone levels that is the key question, but the nature of the causal factors. The second criterion identifies local and regional air pollution problems where the causal factors are local to California, and therefore local controls will be effective and controls outside the state would not be as effective. While climate change may impact levels of ozone in California, this does not change the fact that the factors causing elevated concentrations of greenhouse gases are not solely local to California. This is in contrast to the kinds of motor vehicle emissions normally associated with ozone levels, such as VOCs and NO_X, and the local climate and topography that in the past have lead to the conclusion that California has the need for state standards to meet these kinds of compelling and extraordinary conditions.

California also claims that the GHG standards are needed to meet ''compelling and extraordinary conditions'' because the net impact of upstream emission reductions of ozone precursors from reduced fuel throughput (including a reduction of emissions from refineries in California) helps to reduce California ozone levels. However, without taking a position on whether or to what extent such reductions would occur, any such reduction in local stationary source emissions would not be reductions in the emissions of ozone precursors from motor vehicles, but instead are indirect reductions caused by the expected actions of stationary sources. The second criterion in section 209(b)(1)(B) focuses on the need to control emissions from new motor vehicles because of the impact of motor vehicle emissions on local or regional air pollution problems, not on the need to indirectly control stationary source emissions through motor vehicle standards. California has independent authority to directly regulate stationary sources in the State. Therefore, California cannot rely on the emission reductions from stationary sources in the State as the justification for satisfying the waiver criterion under section 209(b)(1)(B). This waiver decision does not affect California's ability to reduce emissions of ozone precursors from stationary sources directly in California. This analysis of section 209(b)(1)(B) is separate and distinct from the analysis of whether any reduction from indirect sources is relevant under the ''protectiveness'' criterion of section 209(b)(1)(A).

Given that Congress enacted section 209(b) to provide California with a unique ability to receive a waiver of preemption, which provides California with authority that it would not otherwise have under section 209, and given the specific language in section 209(b)(2) pointing out the need for extraordinary and compelling conditions as a condition for the waiver, I believe that it is not appropriate to waive preemption for California's standards to regulate GHGs. Atmospheric concentrations of greenhouse gases are an air pollution problem that is global in nature, and this air pollution problem does not bear the same causal link to factors local to California as do local or regional air pollution problems. I believe that atmospheric concentrations of GHGs are not the kind of local or regional air pollution problem Congress intended to identify in the second criterion of section 209(b)(2). As such I find that California does not need its GHG standards to meet compelling and extraordinary conditions.

3. Relationship of Impacts of Global Climate Change in California to the Rest of the Country

As noted above, in section IV.C.1., as an alternative to the approach discussed in section IV.C.2, EPA has also considered the effects of this global air pollutant problem in California in

[28] *See* S. Rep. No 403, 90th Cong. 1st Sess., at 32–33 (1967).

comparison to the rest of the country.[29] While the air pollution concentrations may be relatively uniform around the globe, and GHG emissions distributed globally, EPA has considered whether the potential impact of climate change resulting from these emissions and concentrations will differ across geographic areas and if so whether the likely effects in California amount to compelling and extraordinary conditions.

In determining whether the effect in California is compelling and extraordinary, guidance can be found in the legislative history, which speaks of California demonstrating ''compelling and extraordinary circumstances sufficiently different from the nation as a whole to justify standards on automobile emissions which may, from time to time, need to be more stringent than national standards.'' S. Rep. No. 403, 90th Cong. 1st Sess., at 32 (1967). The history refers to California's ''peculiar local conditions'' and ''unique problems.'' Id. This indicates a Congressional intent that there be particular circumstances in California sufficiently different from the nation as a whole that justify separate standards in California. Therefore the criterion to apply is whether the effects in California from elevated concentrations of GHGs and any resulting climate change are different enough from the rest of the nation as a whole that California should be considered to have compelling and extraordinary conditions under section 209(b)(1)(B).

In its waiver request CARB restates its need for its own engine and vehicles programs to meet serious air pollution problems. CARB states that climate change threatens California's public health, water resources, agricultural industry, ecology, and economy. Direct health impacts due to climate change that CARB cites include extreme events, such as heat waves, droughts, increased fire frequency, and increased storm intensity. CARB also notes that air quality impacts, such as increases in ground-level ozone due to higher temperatures, will cause secondary health effects. CARB's waiver request also anticipates that manufacturers may argue that California's position vis-à-vis other states regarding climate change impacts is not ''extraordinary.'' In addition to stating that this claim is not legally pertinent to EPA's review of California's continuing need for its own ''motor vehicle program,'' CARB also notes that both the Assembly Bill 1493 (Chap. 200, Stats, 2002 (Pavley)) and the CARB Board Resolution 04–28 (September 23, 2004) recognize that global warming would impose compelling and extraordinary impacts such as those noted above.

EPA also received comment from CARB and others supporting the waiver stating that California faces unique and compelling geographical and population issues in their state, which have not changed since Congress and EPA originally recognized California's need to establish separate vehicle standards. According to the comments, along with exacerbating ozone impacts and increasing wildfires, there are a number of other compelling and extraordinary circumstances in California that justify the passage of GHG emission standards, including: declining snowpack and early snowmelt and resultant impacts on water storage and release, sea level rise, salt water intrusion, and adverse impacts to agriculture (e.g., declining yields, increased pests, etc.), forests, and wildlife. During EPA's two public hearings and in written submissions to the docket many commenters provided additional discussion regarding the variety and severity of adverse impacts of GHG emissions and global warming on the environment. In addition, some commenters specifically point to a direct threat to public health (e.g., asthma) since increased temperatures due to increased GHG emissions will lead to increased levels of ozone and other pollutants. Some commenters also assert that there is nothing in section 209(b)(1)(B) of the CAA that limits the ''extraordinary and compelling conditions'' that should be considered to those associated with smog, and that as a result, California should be able to consider these additional conditions.

EPA also received comments suggesting that in order for California's conditions to be ''extraordinary'' they need not be worse or unique among states. CARB points out, in reference to the 1984 PM waiver, California's conditions need not be worse or unique among States because if that were the case only California could be setting its own standards for specific California purposes. These commenters suggest in addition that, in any case, conditions are indeed worse in California. CARB points to the testimony of Dr. Stephen Schneider of Stanford University and others to demonstrate that not only are California's conditions ''unique and arguably more severe'' (e.g. temperature impacts from global warming are more certain for Western states like California) but also that no other state faces the combination of ozone exacerbation, wildfire emission's contribution, water system and coastal system impacts and other impacts faced by California.

On the other hand, several commenters opposed to granting the waiver state that global warming is not a compelling and extraordinary condition specific to California. They assert that the ''extraordinary'' aspect of section 209(b)(1)(B) embodies a concept of uniqueness and to date, EPA has granted waivers for California to address the issue of localized urban air pollution caused by criteria and other health-related pollutants. In its interpretation of the term ''compelling and extraordinary conditions'' CARB describes a number of potential impacts to tourism, public health, water resources, agriculture, ecology, wildfires, droughts, heat waves, flooding, and other adverse effects, many of which, according to some commenters, could also be claimed by other States as resulting from climate change. The commenters state that CARB has not demonstrated that the negative impacts it would face from global climate change are ''extraordinary'' as compared to other States in the nation. Even though California can claim that it is more susceptible to some kinds of risks because it is a coastal state, that does not differentiate California from other coastal states, of which there are many. According to commenters, the level of significance implied by the structure of the Act, as set against constitutional principles, requires that California face truly unique circumstances. The Alliance states that California has not satisfied the requirement under section 209(b)(1)(B) because, apart from the arguments discussed in section IV.C.2 above, California has not pointed to an effect that is not widely shared and sufficiently unique with respect to the nature or degree of the effect to be experienced. In addition, several commenters that supported the waiver, in particular commenters representing states and localities other than California, commented that global climate change would also have a substantial effect on areas other than California.[30] These comments may tend

[29] The review in this section is independent of the analysis in the previous section. That analysis is sufficient to deny the waiver request. This analysis provides an independent reason for denial.

[30] EPA received comment during its public hearings and written comment period from representatives from several states, including: New Jersey, Rhode Island, Maryland, Illinois, Maine, Pennsylvania, Massachusetts, New York, New Mexico, Oregon, Illinois, Connecticut, Vermont, and Florida. Many of these comments note studies or concerns where specific and critical risks or vulnerabilities are identified (e.g., coastal flooding and erosion, increased temperatures, frequent and intense storms, aging populations vulnerable to

to indicate that the effects of global climate change in California are not extraordinary compared to the rest of the country.[31]

In order to assess such comments and the arguments made both in favor and against a determination that California faces extraordinary and compelling conditions, the following section discusses the atmospheric effect of GHG emissions, observed and projected climate change, the context within which climate change impacts may occur, and the projected risks and impacts associated with climate change, both in California and nationally.

a. Atmospheric Effect of Greenhouse Gases and Their Atmospheric Concentrations

It is widely recognized that greenhouse gases have a climatic warming effect by trapping heat in the atmosphere that would otherwise escape to space.[32] Greenhouse gases, once emitted, can remain in the atmosphere for decades to centuries, meaning that their concentrations become well-mixed throughout the global atmosphere regardless of emission origin. Therefore, the concentrations of the six primary GHGs directly emitted by human activities (CO_2, CH_4, N_2O, HFCs, PFCs, SF_6) over the U.S. and California are, for all practical purposes, the same as the global average. In contrast, the concentrations of more ''traditional'' pollutants, such as tropospheric ozone, are more variable over space and time due to their much shorter atmospheric lifetimes (e.g., days to weeks) compared to GHGs.[33]

The global atmospheric CO_2 concentration has increased about 35% from pre-industrial levels to 2005, and almost all of the increase is due to anthropogenic (i.e., man-made) emissions.[34] The global atmospheric concentration of CH_4 has increased by 148% from pre-industrial levels; and the N_2O concentration has increased 18%. The observed concentration increase in these gases can also be attributed primarily to anthropogenic emissions. The industrial fluorinated gases, HFCs, PFCs, and SF_6, have relatively low atmospheric concentrations but are increasing rapidly; these gases are entirely anthropogenic in origin.[35]

b. Observed Global, U.S. and California Climate Change

i. Global Temperature

According to the most recent reports of the International Panel on Climate Change, warming of the climate system is unequivocal and is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level.[36] Global mean surface temperatures have risen by 0.74°C (1.3°F) over the last 100 years. The rate of warming over the last 50 years is almost double that over the last 100 years. Global mean surface temperature was higher during the last few decades of the 20th century than during any comparable period during the preceding four centuries.[37] Most of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic GHG concentrations.[38] Climate model simulations suggest natural forcings alone (e.g., changes in solar irradiance) cannot explain the observed warming. Likewise, North America's observed temperatures over the last century can only be reproduced using model simulations containing both natural and anthropogenic forcings.[39]

Widespread changes in extreme temperatures have been observed in the last 50 years across all world regions including the U.S. Cold days, cold nights, and frost have become less frequent, while hot days, hot nights, and heat waves have become more frequent.[40]

ii. U.S. and California Temperatures

U.S. temperatures also warmed during the 20th century and into the 21st century. U.S. temperatures are now approximately 1.0 °F warmer than at the start of the 20th century, with an increased rate of warming over the past 30 years. The Southeast experienced a very slight cooling trend over the entire period (−0.04 °F per century), but shows warming since 1979. California itself has experienced a warming trend of 2.3 °F over the period 1901 to 2005,[41] while the greatest temperature increase occurred in Alaska (3.3 °F per century).

iii. U.S. and California Precipitation

Data show that over the contiguous U.S., total annual precipitation increased at an average rate of 6% per century from 1901–2005.[42] The greatest increases in precipitation were in the East North Central climate region (12% per century) and the South (11%). Precipitation in the Northeast increased by 7%, in the Southeast by 3%, the Central U.S. by 8%, the West North Central by 3%, the Southwest by 1%, the West by 9%, and the Northwest by 5%. Precipitation trends for the state of California alone are not as clear as the increased temperature trends.[43]

iv. Global and U.S. Sea Level Rise

There is strong evidence that global sea level gradually rose in the 20th century and is currently rising at an increased rate. The total 20th century global sea level rise is estimated to be 6.7 ± 2 inches (0.17 ± 0.05 m).[44] Nearly

intensities in weather systems, vector-borne diseases, etc.).

[31] EPA received comment from the Western Environmental Law Center (EPA–HQ–OAR–0173–1404.1), among others, suggesting that although many states have submitted comment outlining the challenges and impacts that they face as a result of climate change this nevertheless does not undermine the fact that California faces compelling and extraordinary conditions. The Western Environmental Law Center notes ''Moreover, as California has noted, the state 'is particularly vulnerable' to climate change impacts, including, in its Bay-Delta area, 'to saltwater intrusion from sea-level rise, levee collapse, and flooding, any of which would severely tax California's increasingly fragile water-supply system * * *. The state notes, as well, that '[t]he predicted decrease in winter snow pack would exacerbate these impacts by reducing spring and summer snowmelt runoff critical for municipal and agricultural uses, a situation further strained by fish and wildlife considerations. Also, of course, California's high ozone levels—clearly a condition Congress considered—will be exacerbated by higher temperatures from global warming.' ''.

[32] *See http://www.epa.gov/climatechange/science/stateofknowledge.html.*

[33] Forster, P. et al. (2007) Changes in Atmospheric Constituents and in Radiative Forcing. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Avery, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[34] IPCC (2007) Summary for Policymakers. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] *Id.*

[39] *Id.*

[40] *Id.*

[41] Data obtained from: *http://www.ncdc.noaa.gov/oa/climate/research/ushcn/ushcn.html.*

[42] Data obtained from: *http://www.ncdc.noaa.gov/oa/climate/research/ushcn/ushcn.html.*

[43] California Energy Commission (2005) *Climate Change Impacts and Adaptation in California.* CEC–500–2005–103–SD.

[44] Bindoff, N.L. et al. (2007) Observations: Oceanic Climate Change and Sea Level. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Avery, M.Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

all of the Atlantic Ocean shows sea level rise during the past decade with the rate of rise reaching a maximum (over 0.08 inches or 2 mm per year) in a band along the U.S. east coast. Sea level [45] has been rising 0.08–0.12 inches per year (2.0–3.0 mm per year) along most of the U.S. Atlantic and Gulf coasts. The rate of sea level rise varies from about 0.36 inches per year (10 mm per year) along the Louisiana Coast (due to land sinking), to a drop of a few inches per decade in parts of Alaska (because land is rising).

Historical trends along the California coast, quantified from a small set of California tide gauges, have approached 0.08 inches per year (2 mm per year), which are rates very similar to those estimated for global mean sea level.[46] On average this is generally less than or equal to the rate of sea level rise elsewhere in the US.

c. Projected Climate Change

i. Global Context

The majority of future reference-case scenarios (assuming no explicit GHG mitigation actions beyond those already enacted) project an increase of global GHG emissions over the century, with climbing GHG concentrations and rising net positive radiative forcing. Carbon dioxide is expected to remain the dominant anthropogenic GHG over the course of the 21st century. The radiative forcing associated with the non-CO_2 GHGs is still significant and growing over time.[47]

Through about 2030, projections for the global warming rate are affected little by different scenario assumptions or different model sensitivities.[48] By mid-century, the choice of scenario becomes more important for the magnitude of the projected warming; about a third of that warming is projected to be due to climate change that is already committed. By the end of the century, projected average global warming (compared to average temperature around 1990) varies significantly by emissions scenario, ranging from 1.8 to 4.0 °C (3.2 to 7.2 °F), with an uncertainty range of 1.1 to 6.4 °C (2.0 to 11.5 °F), according to the IPCC.[49]

By the end of the century, globally averaged sea level is projected to rise between 0.18 and 0.59 meters relative to around 1990.[50] These numbers represent the lowest and highest projections of the 5 to 95% ranges for all scenarios considered collectively and include neither uncertainty in carbon cycle feedbacks nor rapid dynamical changes in ice sheet flow. In all scenarios, the average rate of sea level rise during the 21st century very likely exceeds the 1961 to 2003 average rate (1.8 ± 0.5 mm per year).[51]

ii. U.S. Projections for Temperature, Precipitation and Sea Level Rise

All of the U.S. is very likely to warm during this century, and most areas of the U.S. are expected to warm by more than the global average. The average warming in the U.S. is projected to exceed 2 °C (3.6 °F) by the end of the century, with 5 out of 21 models from IPCC projecting average warming in excess of 4 °C (7.2 °F).[52] The largest warming is projected to occur in winter over northern parts of Alaska. In western, central and eastern regions of North America, the projected warming has less seasonal variation and is not as large, especially near the coast, consistent with less warming over the oceans.

It is very likely that heat waves will become more intense, more frequent, and longer lasting in a future warm climate, whereas cold episodes are projected to decrease significantly.

Intensity of precipitation events is projected to increase in the U.S. and other regions of the world, increasing the risk of flooding, greater runoff and erosion, and thus the potential for adverse water quality effects.[53] Increases in the amount of precipitation are very likely in higher latitudes, while decreases are likely in most subtropical, more southern regions, continuing observed patterns in recent trends in observations. The mid-continental area is expected to experience drying during summer, indicating a greater risk of drought. It is likely that hurricanes will become more intense, with stronger peak winds and more heavy precipitation associated with ongoing increases of tropical sea surface temperatures.[54]

For the U.S. coastline, a mid-range emissions scenario shows sea level rise values close to the global mean, with slightly higher rates in eastern Canada and western Alaska, and stronger positive anomalies in the Arctic. The projected rate of sea level rise off the low-lying U.S. South Atlantic and Gulf coasts is also higher than the global average.[55]

iii. California Projections of Temperature, Precipitation and Sea Level Rise

Climate change projections were also conducted by California using many of the same global GHG emission scenarios that underlie the IPCC's projections. Over the course of the 21st century, temperatures are projected to increase by 3° to 10.4 °F.[56] Precipitation trends, which are more difficult to project at the regional scale, do not show consistent trends among different modeling

[45] U.S. sea level data obtained from the Permanent Service for Mean Sea Level *http://www.pol.ac.uk/psmsl/* of the Proudman Oceanographic Laboratory.

[46] California Climate Change Center (2006) *Scenarios of Climate Change in California: An Overview.* CEC–500–2005–186–SF.

[47] CCSP (2007) Scenarios of Greenhouse Gas Emissions and Atmospheric Concentrations (Part A) and Review of Integrated Scenario Development and Application (Part B). A Report by the U.S. Climate Change Science Program and the Subcommittee on Global Change Research [Clarke, L., J. Edmonds, J. Jacoby, H. Pitcher, J. Reilly, R. Richels, E. Parson, V. Burkett, K. Fisher-Vanden, D. Keith, L. Mearns, H. Pitcher, C. Rosenzweig, M. Webster (Authors)]. Department of Energy, Office of Biological & Environmental Research, Washington, DC., USA, 260 pp. See also, IPCC (2000) *Special Report on Emissions Scenarios. A Special Report of Working Group III of the Intergovernmental Panel on Climate Change* [N. Nakicenovic et al. (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[48] IPCC (2007) Summary for Policymakers. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Avery, M.Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[49] *Id.*

[50] *Id.*

[51] *Id.*

[52] Christensen, J.H. et al. (2007) Regional Climate Projections. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Avery, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[53] *Id. See also,* Field, C.B. et al. (2007) North America. In: *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [M.L. Parry, O.F. Canziani, J.P. Palutikof, P.J. van der Linden and C.E. Hanson (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[54] IPCC (2007) Summary for Policymakers. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Avery, M.Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[55] Nicholls, R.J. et al. (2007) Coastal Systems and Low-lying Areas. In: *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [M.L. Parry, O.F. Canziani, J.P. Palutikof, P.J. van der Linden and C.E. Hanson (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[56] California Energy Commission (2006). Our Changing Climate: Assessing the Risks to California. [Accessed 08.08.07: *http://www.energy.ca.gov/2006publications/CEC–500–2006–077/CEC–500–2006–077.PDF*].

scenarios. Sea level rise is expected to continue along California.[57] The middle to higher end of the projected range would substantially exceed the historical rate of sea level rise observed at San Francisco and San Diego during the past 100 years.[58]

d. Projected Risks and Impacts Associated With Climate Change

The IPCC states that vulnerability to climate change is ''a function of the character, magnitude and rate of climate change and the variation to which a system is exposed, its sensitivity and its adaptive capacity.'' [59] Therefore, even though GHGs are global pollutants that remain in the atmosphere long enough to distribute themselves homogenously around the globe, the end-point risks and impacts associated with the resultant climate change vary across and within countries, and over time.

a. Across the U.S.

The IPCC [60] made the following conclusions with *very high confidence* [61] regarding what are expected to be key impacts for North America:[62] Coastal communities and habitats will be increasingly stressed by climate change impacts interacting with development and pollution; climate change will constrain North America's over-allocated water resources, increasing competition among agricultural, municipal, industrial and ecological uses; climate change impacts on infrastructure and human health and safety in urban centers will be compounded by aging infrastructure, maladapted urban form and building stock, urban heat islands, air pollution, population growth and an aging population; and, disturbances such as wildfire and insect outbreaks are increasing and are likely to intensify in a warmer future with drier soils and longer growing seasons.

Severe heat waves are projected to intensify in magnitude and duration over the portions of the U.S. where these events already occur, with likely increases in mortality and morbidity, especially among the elderly, young and frail. Ranges of vector-borne and tick-borne diseases in North America may expand but with modulation by public health measures and other factors.[63]

Climate change is also expected to facilitate the spread of invasive species and disrupt ecosystem services. Over the 21st century, changes in climate will also cause species to shift north and to higher elevations and fundamentally rearrange U.S. ecosystems. Differential capacities for range shifts and constraints from development, habitat fragmentation, invasive species, and broken ecological connections will alter ecosystem structure, function, and services.

The IPCC projects with virtual certainty declining air quality in U.S. and other world cities due to warmer and fewer cold days and nights and/or warmer/more frequent hot days and nights over most land areas.[64] Climate change is expected to lead to increases in ozone pollution, with associated risks in respiratory infection and aggravation of asthma. Ozone exposure also may contribute to premature death in people with heart and lung disease.[65] In addition to human health effects, tropospheric ozone has significant adverse effects on certain vegetation.[66] The directional effect of climate change on ambient particulate matter levels remains uncertain.

It should be noted that moderate climate change in the early decades of the century is projected to have some ''positive'' effects including an increase in aggregate yields of rainfed agriculture by 5–20% in the U.S. Such effects, however, contain important variability among regions. Moreover, major challenges are projected for crops that are near the warm end of their suitable range or depend on highly utilized water resources.[67] Recent studies indicate that climate change scenarios that include increased frequency of heat stress, droughts and flooding events reduce crop yields and livestock productivity beyond the impacts due to changes in mean variables alone. Climate variability and change also modify the risks of pest and pathogen outbreaks.

b. Across California

California is expected to experience many of the key risks and impacts from climate change that have been highlighted above for the U.S. as a whole. Additionally, California has a number of physical and economic characteristics to consider when evaluating climate change impacts within the state, and how those impacts may compare to those in the rest of the country. First, as a state, California has the largest agricultural based economy (based on 13% of U.S. market value of agricultural products sold).[68] Second, California has the largest state coastal population, representing 25% of the U.S. oceanic coastal population.[69]

California's agricultural sector is heavily dependent on irrigation, has the nation's highest crop value and is the nation's leading dairy producer.[70] Though most scientific literature has focused on how elevated CO_2 concentrations and climate change may

[57] *Id.*

[58] California Climate Change Center (2006) *Scenarios of Climate Change in California: An Overview.* CEC–500–2005–186–SF.

[59] IPCC (2007) Summary for Policymakers. In: *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [M.L. Parry, O.F. Canziani, J.P. Palutikof, P.J. van der Linden and C.E. Hanson (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[60] Field, C.B. *et al.* (2007) North America. In: *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [M.L. Parry, O.F. Canziani, J.P. Palutikof, P.J. van der Linden and C.E. Hanson (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[61] According to IPCC terminology, ''very high confidence'' conveys a 9 out of 10 chance of being correct.

[62] Though the IPCC chapter on which this information is based is focused on North America, the IPCC convening lead authors of this chapter confirmed for EPA in a written statement that the chapter's executive summary conclusions are equally applicable to the U.S. *See* EPA–HQ–OAR–2006–0173–6401.

[63] Field, C.B. *et al.* (2007) North America. In: *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [M.L. Parry, O.F. Canziani, J.P. Palutikof, P.J. van der Linden and C.E. Hanson (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[64] IPCC (2007) Summary for Policymakers. In: *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [M.L. Parry, O.F. Canziani, J.P. Palutikof, P.J. van der Linden and C.E. Hanson (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[65] But see discussion above.

[66] EPA is currently reviewing the ozone NAAQS, including the impact of ozone on vegetation with respect to the secondary standard for ozone. (72 FR 37818, July 11, 2007).

[67] Field, C.B. *et al.* (2007) North America. In: *Climate Change 2007: Impacts, Adaptation and Vulnerability. Contribution of Working Group II to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [M.L. Parry, O.F. Canziani, J.P. Palutikof, P.J. van der Linden and C.E. Hanson (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[68] *See* USDA's 2002 Census of Agriculture, National Agricultural Statistics Service: *http://www.agcensus.usda.gov/Publications/2002/index.asp.*

[69] *See* NOAA (2004) Population Trends Along the Coastal United States: 1980–2008. Note that this figure excludes the coastal population along the Great Lakes. California also has the largest state population, representing just over 12% of the total U.S. population. See Table 1: Annual Estimates of the Population of the United States, Regions, States, and Puerto Rico: April 1, 2000 to July 1, 2007 (Population Division, U.S. Census Bureau).

[70] California Regional Assessment Group (2002) *The Potential Consequences of Climate Variability and Change for California: A California Regional Assessment.*

affect crop yields, there is improved information on how livestock productivity may be affected by thermal stress and through nutritional changes in forage caused by elevated CO_2 concentrations. Wine is California's highest value agricultural product;[71] the wine grapes are very sensitive to temperature changes.

The conditions which create California's tropospheric ozone problems remain (e.g., topography, regional meteorology, number of vehicles). Climate change is expected to exacerbate tropospheric ozone levels. A number of studies in the U.S. have shown that summer daytime ozone concentrations correlate strongly with temperature, i.e., ozone is shown to increase with increasing temperature. Atmospheric circulation can be expected to change in a warming climate and, thus, modify pollutant transport and removal. The more frequent occurrence of stagnant air events in urban or industrial areas could enhance the intensity of air pollution events, although the importance of these effects is not yet well quantified.[72]

Wildfires, which are already increasing in duration and intensity, may be exacerbated. Wildfires can also contribute to health problems through increased generation of particulate matter.

California's water resources are already stressed due to competing demands from agricultural, industrial and municipal uses. Climate change is expected to introduce an additional stress to an already over-allocated system by increasing temperatures (increasing evaporation), and by decreasing snowpack, which is an important water source in the spring and summer.

California has the greatest variety of ecosystems in the U.S., and the second most threatened and endangered species (of plants and animals combined) and the most threatened and endangered animal species, representing about 21% of the U.S. total.[73] As noted above, climate change is expected to have a range of impacts on U.S. ecosystems.

c. The Impacts of Climate Change in California Compared to the Nation as a Whole

As the previous section indicates, global climate change is a substantial and critical challenge for the environment. There is little question that the conditions brought about as a result of global climate change are serious, whether reviewing the issue as a global, national or state-specific issue. However, section 209(b)(1)(B) also requires that conditions be ''compelling and extraordinary,'' in particular with regard to California. The legislative history, when discussing the justification for this provision, discusses conditions in California as ''unique,'' and speaks of California demonstrating ''compelling and extraordinary circumstances sufficiently different from the nation as a whole to justify standards on automobile emissions which may, from time to time, need to be more stringent than national standards.'' S. Rep. No. 403, 90th Cong. 1st Sess., at 32 (1967). The compromise that brought about section 209(b)(1)(B) was contingent on the condition that vehicle manufacturers would not have to meet separate state standards for conditions in California that were not sufficiently different from the rest of the country to justify such standards.

While I find that the conditions related to global climate change in California are substantial, they are not sufficiently different from conditions in the nation as a whole to justify separate state standards. As the discussion above indicates, global climate change has affected, and is expected to affect, the nation, indeed the world, in ways very similar to the conditions noted in California.[74] While proponents of the waiver claim that no other state experiences the impacts in combination as does California, the more appropriate comparison in this case is California compared to the nation as a whole, focusing on averages and extremes, and not a comparison of California to the other states individually. These identified impacts are found to affect other parts of the United States and therefore these effects are not sufficiently different compared to the nation as a whole. California's precipitation increases are not qualitatively different from changes in other areas. Rises in sea level in the coastal parts of the United States are projected to be as severe, or more severe, particularly in consequences, in the Atlantic and Gulf regions than in the Pacific regions, which includes California. Temperature increases have occurred in most parts of the United States, and while California's temperatures have increased by more than the national average, there are other places in the United States with higher or similar increases in temperature.

It is true that many of the effects of global climate change (e.g. water supply issues, increases in wildfires, effects on agriculture) will affect California. But these effects are also well established to affect other parts of the United States.[75] Many parts of the United States may have issues related to drinking water (e.g., increased salinity) and wildfires and effects on agriculture are by no means limited to California. These are issues of national, indeed international, concern and Congress has indicated that such conditions do not merit separate standards in California unless the conditions are sufficiently different in California compared to the rest of the nation as a whole. In my judgment, the impacts of global climate change in California, compared to the rest of the nation as whole, are not sufficiently different to be considered ''compelling and extraordinary conditions'' that merit separate state GHG standards for new motor vehicles.

V. Decision

Having given due consideration to all material submitted for the record and other relevant information and the requisite burden of proof required to deny a waiver, I find that California does not need its GHG standards for new motor vehicles to meet compelling and extraordinary conditions, pursuant to section 209(b)(1)(B). Therefore, I deny California's request to waive application of section 209(a) of the Act with respect to its GHG standards for new motor vehicles. I make no findings with regard to sections 209(b)(1)(A) and 209(b)(1)(C) of the Act.

My decision will affect not only persons in California, but also

[71] *Id.*

[72] Denman, K.L., *et al.* (2007) Couplings Between Changes in the Climate System and Biogeochemistry. In: *Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change* [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Avery, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

[73] U.S. Fish and Wildlife Service, Threatened and Endangered Species System as of February 20, 2008. *http://ecos.fws.gov/tess_public/StartTESS.do.*

[74] Indeed, California in an attachment to its Motion for Summary Judgment filed in the U.S. District Court for the District of Columbia, claims '' Other States that have adopted or are considering adoption of the California Standard are also adversely affected by increasing concentrations of atmospheric greenhouse gases, including an increase in coastal erosion, damage to low-lying coastal infrastructure, increased heat waves, increased frequency and intensity of wildfires and the alteration of hardwood forests,'' and cites several EPA documents that discuss global climate change impacts in other states. Plaintiff's Motion for Summary Judgment, Separate Statement of Undisputed Material Facts, *California* v. *EPA,* No. 1:07–CV–02024 (D.C.D.C., Feb. 11, 2008).

[75] See also, EPA's archived Web Site *http://yosemite.epa.gov/oar/globalwarming.nsf/content/impactsstateimpacts.html,* which compiles state-by-state information of global warming impacts.

manufacturers outside the State who would have otherwise had to comply with California's requirements in order to produce new motor vehicles for sale in California. In addition, because other states have adopted or may adopt California's GHG program for new motor vehicles—which is allowed if certain criteria under section 177 of the Act are met, this decision will also affect those states and those persons in such states. For these reasons, I determine and find, as in past waiver decisions, that this is a final action of national applicability for purposes of section 307(b)(1).

As with past waiver decisions, this action is not a rule as defined by Executive Order 12866. Therefore, it is exempt from review by the Office of Management and Budget as required for rules and regulations by Executive Order 12866.

In addition, this action is not a rule as defined in the Regulatory Flexibility Act, 5 U.S.C. section 601(2). Therefore, EPA has not prepared a supporting regulatory flexibility analysis addressing the impact of this action on small business entities.

Dated: February 29, 2008.

Stephen L. Johnson,

Administrator.

[FR Doc. E8–4350 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2007–1065; FRL–8351–3]

Experimental Use Permit; Receipt of Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 71049–EUP–U from KIM-CI, LLC requesting an experimental use permit (EUP) for the plant growth regulator Forchlorfenuron (CPPU). The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before April 7, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2007–1065, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2007–1065. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Tawanda Maignan, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8050; e-mail address: *maignan.tawanda@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI*. Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in

accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

KIM-C1, LLC, 135 W. Shaw, Suite 102, Fresno, CA 93704, has submitted an application for an EUP and Temporary Tolerance for plant growth regulator CPPU, on six crops (almonds, cherry, fig, pear, pistachio, and plum/prune) to permit experimental use under semi-commercial conditions, which will include collection of additional residue data where necessary. The application proposes use in four states (California, Idaho, Oregon, and Washington) on less than 2,000 total acres for a major use; i.e., almonds and nearly 100 total acres for minor crops, i.e., cherry, fig, pear, pistachio, and plum/prune during the first year. KIM-CI proposes to initiate applications in April 2008 to facilitate three full years of data collection.

III. What Action is the Agency Taking?

Following the review of the KIM-CI application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

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

The Agency's authority for taking this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: February 26, 2008.

Lois Rossi,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. E8–4355 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2008–0134; FRL–8353–8]

Experimental Use Permit; Receipt of Application; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of an application 524–EUP–1 from Monsanto Company requesting to amend and extend an experimental use permit (EUP) for the plant-incorporated protectant *Bacillus thuringiensis* Cry1Ac protein and the genetic material necessary for its production (vector PV–GMIR9) in event MON 87701 soybean. The Agency has determined that the application may be of regional and national significance. Therefore, in accordance with 40 CFR 172.11(a), the Agency is soliciting comments on this application.

DATES: Comments must be received on or before April 7, 2008.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2008–0134, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the on-line instructions for submitting comments.
- *Mail*: Office of Pesticide Programs (OPP) Regulatory Public Docket (7502P), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001.
- *Delivery*: OPP Regulatory Public Docket (7502P), Environmental Protection Agency, Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. Deliveries are only accepted during the Docket's normal hours of operation (8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays). Special arrangements should be made for deliveries of boxed information. The Docket Facility telephone number is (703) 305–5805.

Instructions: Direct your comments to docket ID number EPA–HQ–OPP–2008–0134. EPA's policy is that all comments received will be included in the docket without change and may be made available on-line at *http://www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through regulations.gov or e-mail. The regulations.gov website 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 regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the 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.

Docket: All documents in the docket are listed in the docket index available in regulations.gov. To access the electronic docket, go to *http://www.regulations.gov*, select ''Advanced Search,'' then ''Docket Search.'' Insert the docket ID number where indicated and select the ''Submit'' button. Follow the instructions on the regulations.gov website to view the docket index or access available documents. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either in the electronic docket at *http://www.regulations.gov*, or, if only available in hard copy, at the OPP Regulatory Public Docket in Rm. S–4400, One Potomac Yard (South Bldg.), 2777 S. Crystal Dr., Arlington, VA. The hours of operation of this Docket Facility are from 8:30 a.m. to 4 p.m.,

Monday through Friday, excluding legal holidays. The Docket Facility telephone number is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Mike Mendelsohn, Biopesticides and Pollution Prevention Division (7511P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: (703) 308–8715; e-mail address: *mendelsohn.mike@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action is directed to the public in general. This action may, however, be of interest to those persons interested in agricultural biotechnology or those who are or may be required to conduct testing of chemical substances under the Federal Food, Drug, and Cosmetic Act (FFDCA) or the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT**.

B. What Should I Consider as I Prepare My Comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or e-mail. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When submitting comments, remember to:

i. Identify the document by docket ID number and other identifying information (subject heading, **Federal Register** date and page number).

ii. Follow directions. The Agency may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.

iii. Explain why you agree or disagree; suggest alternatives and substitute language for your requested changes.

iv. Describe any assumptions and provide any technical information and/or data that you used.

v. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.

vi. Provide specific examples to illustrate your concerns and suggest alternatives.

vii. Explain your views as clearly as possible, avoiding the use of profanity or personal threats.

viii. Make sure to submit your comments by the comment period deadline identified.

II. Background

Monsanto Company has developed an insect-protected soybean, MON 87701, that produces the Cry1Ac protein to provide protection from feeding damage from certain lepidopteran pests. The 524–EUP–1 application is for 133.10 acres of MON 87701 and 156.52 acres of non-plant-incorported protectant and border acres for plantings through July 31, 2009. A total of five trial protocols will be conducted, including: Agronomic yield trials, breeding and observation nursery trials, regulatory trials, product characterization and efficacy trials, and product development trials. States involved include: Alabama, Arkansas, Georgia, Illinois, Indiana, Kansas, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, Puerto Rico, South Carolina, Tennessee, Texas, and Virginia.

III. What Action is the Agency Taking?

Following the review of the Monsanto Company application and any comments and data received in response to this notice, EPA will decide whether to issue or deny the EUP request for this EUP program, and if issued, the conditions under which it is to be conducted. Any issuance of an EUP will be announced in the **Federal Register**.

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

The Agency's authority for taking this action is under FIFRA section 5.

List of Subjects

Environmental protection, Experimental use permits.

Dated: February 27, 2008.

Janet L. Andersen,

Director, Biopesticides and Pollution Prevention Division, Office of Pesticide Programs.

[FR Doc. E8–4345 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8538–4; Docket ID No. EPA–HQ–ORD–2008–0165]

Draft Toxicological Review of Propionaldehyde: In Support of Summary Information on the Integrated Risk Information System (IRIS)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: The EPA is announcing a public comment period to review selected sections of the final draft document titled, ''Toxicological Review of Propionaldehyde: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/600/R–08/003), related to the human health assessment for Propionaldehyde. The document was prepared by the National Center for Environmental Assessment (NCEA) within EPA's Office of Research and Development.

Public comments submitted to the EPA by May 5, 2008 will be provided to the external peer review panel prior to their meeting (to be announced).

EPA is releasing the draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination. EPA will consider any public comments submitted in accordance with this notice when revising the document.

DATES: The 60-day public comment period begins on March 6, 2008 and ends May 5, 2008. Technical comments should be in writing and must be received by EPA by May 5, 2008. The peer review panel meeting will be announced in a subsequent **Federal Register** Notice.

ADDRESSES: The draft ''Toxicological Review of Propionaldehyde: In Support of Summary Information on the Integrated Risk Information System (IRIS)'' (EPA/600/R–08/003) is available primarily via the Internet on NCEA's

home page under the Recent Additions menu at *http://www.epa.gov/ncea.* A limited number of paper copies are available by contacting the IRIS Hotline at (202) 566–1676, (202) 566–1749 (facsimile), or *hotline.iris@epa.gov.* If you are requesting a paper copy, please provide your name, mailing address, the document title, and the EPA number of the requested publication. Technical comments may be submitted electronically via *www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

If you have questions about the document, contact John Stanek, Chemical Manager, National Center for Environmental Assessment; telephone: 919–541–1048; facsimile: 919–541–0248; e-mail: *stanek.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Document

IRIS is a database that contains scientific Agency positions on potential adverse human health effects that may result from chronic (or lifetime) exposure to specific chemical substances found in the environment. The database (available on the Internet at *http://www.epa.gov/iris*) contains qualitative and quantitative health effects information for more than 500 chemical substances that may be used to support the first two steps (hazard identification and dose-response evaluation) of the risk assessment process. When supported by available data, the database provides oral reference doses (RfDs) and inhalation reference concentrations (RfCs) for chronic health effects, and oral slope factors and inhalation unit risks for carcinogenic effects. Combined with specific exposure information, government and private entities use IRIS to help characterize public health risks of chemical substances in a site-specific situation and thereby support risk management decisions designed to protect public health.

II. How To Submit Technical Comments to the Docket at www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2008–0165, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2008–0165. Please ensure that your comments are submitted within the specified comment period. Comments received after the closing date will be marked ''late,'' and may only be considered if time permits. It is EPA's policy to include all comments it receives in the public docket without change and to make the comments available online at *www.regulations.gov,* including any personal information provided, unless a comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: February 28, 2008.

Rebecca Clark,

Deputy Director, National Center for Environmental Assessment.

[FR Doc. E8–4358 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–R04–OW–2007–1051; FRL–8538–9]

Public Water System Supervision Program Revisions for the State of South Carolina

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of tentative approval.

SUMMARY: Notice is hereby given that the State of South Carolina is revising their Public Water System Supervision (PWSS) program to meet the requirements of the Safe Drinking Water Act (SDWA). South Carolina Department of Health and Environmental Control adopted drinking water regulations for the Long Term 2 Surface Water Treatment and the Stage 2 Disinfection By-Products Rules. EPA has determined that these revisions are no less stringent than the corresponding federal regulations. Therefore, EPA intends to approve South Carolina's PWSS program for these rules.

DATES: All interested parties may request a public hearing and/or submit comments within thirty (30) days of the **Federal Register** publication date to the Regional Administrator at the address

shown below. Frivolous or insubstantial requests for a public hearing may be denied by the Regional Administrator. However, if a substantial request for a public hearing is made within the 30 days, a public hearing will be held. If no timely and appropriate request is received, and the Regional Administrator does not elect to hold a hearing on his/her own motion, this determination shall become final and effective 30 days after the publication of this notice.

ADDRESSES: All documents relating to this determination are available for inspection between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, excluding federal holidays, at U.S. Environmental Protection Agency, Region 4, Water Management Division, Ground Water and Drinking Water Branch, Drinking Water Section, 61 Forsyth Street, SW., Atlanta, GA 30303. For documents specific to this State: South Carolina Department of Health & Environmental Control, Bureau of Water, 2600 Bull Street, Columbia, SC 29201.

You may also submit your comments, identified by Docket ID No. EPA–R04–OW–2007–1051, in one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: morris.janine@epa.gov.*

3. *Fax:* (404) 562–9439.

Instructions: Direct your comments to Docket ID No. EPA–R04–OW–2007–1051. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *http://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 *http://www.regulations.gov* or e-mail, information that you consider to be CBI or otherwise protected. The *http://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 *http://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 *http://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 *http://www.regulations.gov* or in hard copy at the U.S. Environmental Protection Agency, Region 4 office.

FOR FURTHER INFORMATION CONTACT: Ms. Morris, Drinking Water Section, at (404) 562–9480, or *morris.janine@epa.gov*.

Authority: Section 1442 of the Safe Drinking Water Act as amended in 1996 and the National Primary Drinking Water Regulations in 40 CFR part 142.

Dated: February 22, 2008.

J. I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E8–4351 Filed 3–5–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted for Review to the Office of Management and Budget

February 26, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. sections 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimate; (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 the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written Paperwork Reduction Act (PRA) comments should be submitted on or before April 7, 2008. If you anticipate that you will be submitting PRA comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: Submit your PRA comments to Nicholas A. Fraser, Office of Management and Budget, (202) 395–5887, or via fax at 202–395–5167 or via internet at *Nicholas_A._Fraser@omb.eop.gov* and to *Judith-B. Herman@fcc.gov*, Federal Communications Commission, or an e-mail to *PRA@fcc.gov*. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review'', (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, and (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB Control Number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Judith B. Herman at 202–418–0214 or via the Internet at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0508.

Title: (Note: Title change). Sections 1.923, 1.924, and 1.925 and Part 22 Rules—Reporting and Recordkeeping Requirements.

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; and business or other for-profit.

Number of Respondents: 44,127 respondents; 44,127 responses.

Estimated Time Per Response: .084—40 hours.

Frequency of Response: On occasion, quarterly, and semi-annual reporting requirements and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. Sections 151(i), 154(j), 303, 309 and 310 of the Communications Act of 1934, as amended.

Total Annual Burden: 62,835 hours.

Total Annual Cost: $6,643,050.

Privacy Act Impact Assessment: Yes.

Nature and Extent of Confidentiality: There is no need for confidentiality with respect to all Amateur Radio Service filers in this information collection (IC). Pursuant to Section 208(b) of the E-Government Act of 2002, 44 U.S.C. 2501, in conformance with the Privacy Act of 1974, 5 U.S.C. 552(a)(e)(3), the Wireless Telecommunications Bureau (WTB) instructs licensees to use the FCC's Universal Licensing System (ULS), Antenna Structure Registration (ASR), Commission Registration Systems (CORES), and related systems and subsystems to submit information. CORES is used to receive an FCC Registration Number (FRN) and password, after which one must register all current call signs and ASR numbers associated with an FRN within the Commission's system of records (ULS database). Although ULS stores all information pertaining to the individual license via the FRN, confidential information is accessible only by persons or entities that hold the password for each account, and the Bureau's Licensing Division staff. Upon the request of an FRN, the individual licensee is consenting to make publicly available, via the ULS database, all information that is not confidential in nature.

Needs and Uses: The Commission will submit this information collection (IC) to the OMB as an extension (no change in the reporting and/or third party disclosure requirements) during this comment period to obtain the full three-year clearance from them. There has been a change in the annual cost because the OMB did not record this cost in their inventory back in 2004 when this IC was last submitted for approval. Therefore, we are adjusting the cost from zero (0) to $6,643,050.

The information collected pursuant to the rules in Part 22 of the Commission's rules is primarily used by Commission staff to determine, on a case-by-case basis whether or not to grant licenses authorizing construction and operation of wireless telecommunications facilities to telecommunications common carriers, who supply this information when applying for such licenses. Additionally, the information is sometimes used by Commission staff to develop statistics about the demand for various wireless telecommunications licenses and about the performance of the licensing process itself, and on occasion for rule enforcement purposes. Because all application information is routinely and normally made public, interested persons, particularly licensees and their representatives, often review this information as it becomes available in order to determine whether they believe that the wireless telecommunications facilities proposed by applicants would affect any existing or planned wireless telecommunications facilities in which they have an interest. If any adverse effect is anticipated, such parties often use the information to help them prepare pleadings opposing a Commission grant of particular application(s).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–4131 Filed 3–5–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to OMB for Review and Approval, Comments Requested

February 25, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Pursuant to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (b) the accuracy of the Commission's burden estimate; (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 the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before April 7, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, Office of Management and Budget, via Internet at *Nicholas_A._Fraser@omb.eop*.gov or via fax at (202) 395–5167; and to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC, 20554, or via Internet at *PRA@fcc.gov*.

To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the title of this ICR (or its OMB control number, if there is one) and then click on the ICR Reference Number to view detailed information about this ICR.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0833.

Title: Implementation of Section 255 of the Telecommunications Act of 1996: Complaint Filings.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; businesses or other for-profit entities; not-for-profit institutions; Federal government; State, local or tribal governments.

Number of Respondents: 7,854.

Estimated Time per Response: 0.25–5.0 hours.

Frequency of Response: On occasion and one-time reporting requirements; Third party disclosure requirement.

Total Annual Burden: 80,184 burden hours.

Total Annual Cost: $160,000.

Obligation to Respond: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: Confidentiality is an issue to the extent that individuals and households provide personally identifiable information, which is covered under the FCC's system of records notice (SORN), FCC/CGB–1, ''Informal Complaints and Inquiries.''

Privacy Impact Assessment: The Privacy Impact Assessment was completed on June 28, 2007. It may be reviewed at *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html*.

Needs and Uses: The information collection requirements included under this OMB Control Number 3060–0833 govern the filing of complaints with the Commission as part of the implementation of section 255 of the Telecommunications Act of 1996, which seeks to ensure that telecommunications equipment and services are available to all Americans, including those individuals with disabilities. As with any complaint procedure, a certain number of regulatory and information burdens are necessary to ensure compliance with FCC rules. The information collection requirements also give full effect to the accessibility policies embodied in section 255, by requiring telecommunications equipment manufacturers and service providers to make end-user product documentation available in alternate formats, including providing contact information to request such documentation, and by requiring them to demonstrate how they considered accessibility during product development, when no other affirmative defenses to a complaint are pertinent.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–4140 Filed 3–5–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: ACE RADIO CORPORATION, Station KQLP, Facility ID 166074, BMPH–20080110ACB, From GALLUP, NM, To LEUPP, AZ; BRAZOS VALLEY COMMUNICATIONS, LTD., Station KBXT, Facility ID 57802, BPH–20080211ADI, From FRANKLIN, TX, To WIXON VALLEY, TX; BRAZOS VALLEY COMMUNICATIONS, LTD., Station KJXJ, Facility ID 72718, BPH–20080211ADK, From CAMERON, TX, To FRANKLIN, TX; COLLEGE CREEK MEDIA, LLC, Station KDVC, Facility ID 164124, BMPH–20080125AED, From DOVE CREEK, CO, To FRUITVALE, CO; GOOD KARMA BROADCASTING, L.L.C., Station WTLX, Facility ID 4477, BMPH–20080206ADJ, From COLUMBUS, WI, To MONONA, WI; HILL & GLOVER BROADCASTING, LLC, Station NEW, Facility ID 160235, BMP–20080118AAI, From SAVANNAH, GA, To THUNDERBOLT, GA; JAM COMMUNICATIONS, INC., Station WQHK–FM, Facility ID 29859, BPH–20080130AKG, From DECATUR, IN, To HUNTERTOWN, IN; JER LICENSES, LLC, Station NEW, Facility ID 170968, BMPH–20080111ADE, From ROSHOLT, WI, To ROTHSCHILD, WI; MUNBILLA FORT, Station KHLE, Facility ID 34948, BPH–20080114ABE, From BURNET, TX, To KEMPNER, TX; PROETTI, LORENZ E, Station NEW, Facility ID 166043, BMPH–20080201BPB, From DUBOIS, WY, To TETON VILLAGE, WY; RADIOACTIVE, LLC, Station WUPG, Facility ID 164243, BMPH–20070119AGV, From CRYSTAL FALLS, MI, To HARVEY, MI; SIGA BROADCASTING CORPORATION, Station KGBC, Facility ID 26002, BP–20080204AAA, From GALVESTON, TX, To DAYTON, TX; SKYWEST MEDIA L.L.C., Station KFMR, Facility ID 164261, BMPH–20080108AAB, From MARBLETON, WY, To BALLARD, UT; SPRING ARBOR UNIVERSITY, Station KTGG, Facility ID 61993, BP–20080124ACW, From SPRING ARBOR, MI, To OKEMOS, MI; TODD P. ROBINSON, INC., Station KZID, Facility ID 88203, BMPH–20080116AAX, From OROFINO, ID, To JULIAETTA, ID; WVJT, LLC, Station WXCF–FM, Facility ID 28340, BPH–20080114ACM, From CLIFTON FORGE, VA, To BIG ISLAND, VA.

DATES: Comments may be filed through May 5, 2008.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm*. A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC, 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com*.

James D. Bradshaw,

Federal Communications Commission., Deputy Chief, Audio Division, Media Bureau.

[FR Doc. E8–4284 Filed 3–5–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 1:36 p.m. on Monday, March 3, 2008, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Martin J. Gruenberg, seconded by Director Thomas J. Curry (Appointive), concurred in by Director John M. Reich (Director, Office of Thrift Supervision), Director John C. Dugan (Director, Comptroller of the Currency), and Chairman Shelia C. Bair, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: March 3, 2008.

Federal Deposit Insurance Corporation

Robert E. Feldman,

Executive Secretary.

[FR Doc. E8–4383 Filed 3–5–08; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

SUMMARY: *Background.* On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act (PRA), as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR part 1320, Appendix A.1. Board-approved collections of information are incorporated into the official OMB inventory of currently approved collections of information. Copies of the Paperwork Reduction Act Submission, supporting statements and approved collection of information instruments are placed into OMB's public docket files. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number.

Request for Comment on Information Collection Proposals

The following information collections, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collections, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before May 5, 2008.

ADDRESSES: You may submit comments, identified by *FR 4100 or Regulation DD*, by any of the following methods:

- *Agency Web site: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm.*
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *E-mail: regs.comments@federalreserve.gov.* Include docket number in the subject line of the message.
- *Fax:* 202/452–3819 or 202/452–3102.
- *Mail:* Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

All public comments are available from the Board's Web site at *http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm* as submitted, unless modified for technical reasons. Accordingly, your comments will not be edited to remove any identifying or contact information. Public comments may also be viewed electronically or in paper form in Room MP–500 of the Board's Martin Building (20th and C Streets, NW.) between 9 a.m. and 5 p.m. on weekdays.

Additionally, commenters should send a copy of their comments to the OMB Desk Officer by mail to the Office of Information and Regulatory Affairs, U.S. Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street, NW., Washington, DC 20503 or by fax to 202–395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission including, the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public Web site at: *http://www.federalreserve.gov/boarddocs/reportforms/review.cfm* or may be requested from the agency clearance officer, whose name appears below.

Michelle Shore, Federal Reserve Board Clearance Officer (202–452–3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact (202–263–4869), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, Without Revision, of the Following Reports

1. *Report title:* Recordkeeping and Disclosure Requirements Associated with the Guidance on Response Programs for Unauthorized Access to Customer Information.

Agency form number: FR 4100.

OMB control number: 7100–0309.

Frequency: Develop customer notice, one-time; Update and maintain customer notice, annually; Incident notification, event-generated.

Reporters: Financial institutions.

Annual reporting hours: 62,135.

Estimated average hours per response: Develop customer notice, 24; Update and maintain customer notice, 8; Incident notification, 29.

Number of respondents: Develop customer notice, 102; Update and maintain customer notice, 6,957; Incident notification, 139.

General description of report: This information collection is mandatory (15 U.S.C. 6801(b)). Since the Federal Reserve does not collect information associated with the FR 4100, any issue of confidentiality would not generally be an issue. However, confidentiality may arise if the Federal Reserve were to obtain a copy of a customer notice during the course of an examination or were to receive a copy of a Suspicious Activity Report (SAR; FR 2230; OMB No. 7100–0212). In such cases the information would be exempt from disclosure to the public under the Freedom of Information Act (5 U.S.C 552(b)(3), (4), and (8)). Also, a federal employee is prohibited by law from disclosing an SAR or the existence of an SAR (31 U.S.C. 5318(g)).

Abstract: Recent trends in customer information theft and the accompanying misuse of that information have led to the issuance of a supplemental interpretation of existing information technology-related security guidelines applicable to financial institutions. The supplemental guidelines are designed to facilitate timely and relevant notification of affected customers and the appropriate regulatory authority of the financial institutions. The guidelines provide specific direction regarding the nature and content of customer notice.

2. *Report title:* The Recordkeeping and Disclosure Requirement in Connection with Regulation DD (Truth in Savings).

Agency form number: Reg DD.

OMB control number: 7100–0271.

Frequency: Account disclosures, 500; Change in terms notices, 1,130; Prematurity notices, 1,015; Disclosures on periodic statements, 12; and Advertising, 12.

Reporters: State member banks.

Annual reporting hours: 176,177.

Estimated average hours per response: Account disclosures, 1.5 minutes; Change in terms notices, 1 minute; Prematurity notices, 1 minute; Disclosures on periodic statements, 8 hours; and Advertising, 30 minutes.

Number of respondents: 1,172.

General description of report: This information collection is mandatory (12 U.S.C. 4308). Since the Federal Reserve does not collect any information, no issue of confidentiality arises.

Abstract: The Truth in Savings Act and Regulation DD require depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods. The act and regulation mandate the methods by which institutions determine the account balance on which interest is calculated. They also contain rules about advertising deposit accounts.

Board of Governors of the Federal Reserve System, February 29, 2008.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. E8–4266 Filed 3–5–08; 8:45 am]

BILLING CODE 6210–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0086]

General Services Administration Acquisition Regulation; Information Collection; GSA Form 1364/1364A, Proposal To Lease Space (Not Required by Regulation)

AGENCY: Office of the Chief Acquisition Officer, GSA.

ACTION: Notice of request for comments regarding a renewal to an existing OMB clearance.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the General Services Administration will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a currently approved information collection requirement regarding GSA Forms 1364/1364A, Proposal to Lease Space (Not Required by Regulation). These forms are used to obtain information about property being offered for lease to house Federal agencies. These forms provide an equitable way to compare lessor proposals. The GSA Form 1364 is used when no tenant improvements are required. The GSA Form 1364A is used when tenant improvements are required and/or when it is a National Broker Contract. The clearance currently expires on April 30, 2008.

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

DATES: Submit comments on or before: May 5, 2008.

FOR FURTHER INFORMATION CONTACT: Cecelia Davis, Procurement Analyst, Contract Policy Division, at telephone (202) 219–0202 or via e-mail to *cecelia.davis@gsa.gov*.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the Regulatory Secretariat (VPR), General Services Administration, Room 4035, 1800 F Street, NW., Washington, DC 20405. Please cite OMB Control No. 3090–0086, GSA Form 1364/1364A, Proposal to Lease Space (Not Required by Regulation), in all correspondence.

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of real property management, and disposal of real and personal property. These mission responsibilities generate requirements that are realized through the solicitation and award of leasing contracts. Individual solicitations and resulting contracts may impose unique information collection/reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting program objectives.

B. Annual Reporting Burden

Respondents: 5016.

Responses Per Respondent: 1.

Hours Per Response: 5.0205.

Total Burden Hours: 25,183.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VPR), 1800 F Street, NW., Room 4035, Washington, DC 20405, telephone (202) 208–7312. Please cite OMB Control No. 3090–0086, GSA Form 1364/1364A, Proposal to Lease Space (Not Required by Regulation), in all correspondence.

Dated: February 29, 2008.

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E8–4415 Filed 3–5–08; 8:45 am]

BILLING CODE 6820–61–P

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer Meeting

The Depository Library Council to the Public Printer (DLC) will meet on Monday, March 31, 2008, through Wednesday, April 2, 2008, at Westin Crown Center, located in Kansas City, MO. The sessions will take place from 8 a.m. to 5 p.m. Monday through Wednesday. The meeting will be held at the Westin Crown Center, One Pershing Road, Kansas City, MO.

The purpose of this meeting is to discuss the Federal Depository Library Program. All sessions are open to the public. The sleeping rooms available at the Westin Crown Center will be at the Government rate of $103.00 (plus applicable state and local taxes, currently 15.22%) a night for a single or double. The Westin Crown Center is in compliance with the requirements of Title III of the Americans with Disabilities Act and meets all Fire Safety Act regulations.

Robert C. Tapella,

Public Printer of the United States.

[FR Doc. 08–945 Filed 3–5–08; 8:45 am]

BILLING CODE 1520–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–238]

Notice of the Revised Priority List of Hazardous Substances That Will Be the Subject of Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), U.S. Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), requires that ATSDR and the Environmental Protection Agency(EPA) prepare a Priority List of Hazardous Substances commonly found at facilities on the CERCLA National Priority List (NPL). The Priority List of Hazardous Substances includes substances that have been determined to be of greatest public health concern to persons at or near NPL sites. CERCLA as amended also requires that ATSDR and EPA periodically revise the Priority List of Hazardous Substances.

Pursuant to these CERCLA mandates, the agencies announce that based on the most recent information available, they have developed and now make available a revised CERCLA Priority List of 275 Hazardous Substances. Because CERCLA as amended also requires ATSDR to prepare and to periodically revise toxicological profiles on hazardous substances included in the priority list, each priority list substance is a potential toxicological profile subject, as well as a candidate for identification of priority data needs.

In addition to the Priority List of Hazardous Substances, ATSDR has developed a Completed Exposure Pathway Site Count Report. This report lists the number of sites or events at which ATSDR is involved and wherein a substance has been found in a completed exposure pathway (CEP). This report is included in the Support Document of the Priority List.

ADDRESSES: Requests for a printed copy of the 2007 CERCLA Priority List of Hazardous Substances That Will Be The Subject of Toxicological Profiles and Support Document, including the CEP report, should include the docket control number ATSDR–238, and should be submitted to Ms. Nickolette Roney, Division of Toxicology and Environmental Medicine, ATSDR, Mail Stop F–32, 1600 Clifton Road, NE., Atlanta, GA 30333. Requests must be in writing.

Electronic Availability: The 2007 Priority List of Hazardous Substances and Support Document will be posted on ATSDR's Web site located at *http://www.atsdr.cdc.gov/clist.html.* The CEP Report will also be posted at *http://www.atsdr.cdc.gov/cep.html.* This is an informational notice only; no comments are solicited at this time. Any comments received will, however, be considered for inclusion in the next revision of the list and placed in a publicly accessible docket. Therefore, please do not include in comments any confidential business information or any other confidential information.

FOR FURTHER INFORMATION CONTACT: Division of Toxicology and Environmental Medicine, ATSDR, 1600 Clifton Road NE., Mail Stop F–32, Atlanta, GA 30333, telephone 800–232–4636.

SUPPLEMENTARY INFORMATION: CERCLA establishes certain requirements for ATSDR and EPA with regard to hazardous substances most commonly found at facilities on the CERCLA NPL. Section 104(i)(2)(A) of CERCLA, as amended,[1] requires that ATSDR and EPA prepare a list, in order of priority, of at least 100 hazardous substances most commonly found at facilities on the NPL and which, in the agencies' sole discretion, pose the most significant potential threats to human health (see also 52 FR 12866, April 17, 1987). CERCLA section 104 (i)(2)(B)[2] also requires the agencies to revise the priority list to include 100 or more additional hazardous substances (see also 53 FR 41280, October 20, 1988), and to include at least 25 additional hazardous substances in each of the three successive years following the 1988 revision (see 54 FR 43619, October 26, 1989; 55 FR 42067, October 17, 1990; and 56 FR 52166, October 17, 1991).CERCLA section 104(i)(2)(B) further requires ATSDR and EPA at least annually to revise the list to include any additional hazardous substances that have been determined to pose the most significant potential threat to human health.

In 1995, the agencies, recognizing the stability of this listing activity, altered the priority list publication schedule (60 FR 16478, March 30, 1995). As a result, the priority list is now on a 2-year schedule, with annual informal review and revision. Each substance on the CERCLA Priority List of Hazardous Substances is also a potential subject of an ATSDR-prepared toxicological profile and, subsequently, a candidate for the identification of priority data needs.

The initial priority lists of hazardous substances (1987–1990) were based on the most comprehensive and relevant information then available. In 1991, with the development of ATSDR's HazDat database, more comprehensive sources of information became available on the frequency of occurrence and the potential for human exposure to substances at NPL sites. Using this updated database, in 1991 a revised approach and algorithm for ranking substances was developed. On June 27, 1991, a notice announcing the intention of ATSDR and EPA to revise and rerank the Priority List of Hazardous Substances was published (56 FR 29485). The 1991 Priority List and revised approach used for its compilation was summarized in the ''Revised Priority List of Hazardous Substances'' **Federal Register** notice published October 17, 1991 (56 FR 52166). The same approach and the same basic algorithm have been used in all subsequent listing activities, including 2007. The algorithm consists of three criteria, which are combined to result in the total score. The three criteria are

- Frequency of occurrence at NPL sites;
- Toxicity; and
- Potential for human exposure.

Because HazDat is a dynamic database in which data collection is ongoing, additional information from the HazDat database became available for the 2007 listing activity. Since the development of the 2005 Priority List of Hazardous Substances, this additional information has been entered into HazDat. The site-specific information from HazDat used in the listing activity has been collected from ATSDR public health assessments and from site-file data packages used to develop the public health assessments. The new information may include more recent NPL frequency-of-occurrence data, additional concentration data, and more information on exposure to substances at NPL sites. Using these additional data, one substance has been replaced on the list of 275 substances since the 2005 publication; the replacement substance was previously under consideration. Changes in the order of substances appearing on the CERCLA Priority List of Hazardous Substances will be reflected in program activities that rely on the list for future direction.

[1] 42 U.S.C. 9604(i)(2)(A).

[2] 42 U.S.C. 9604(i)(2)(B).

The 2007 Priority List of Hazardous Substances contains, based on CERCLA § 104(i)(2)(A) [3] criteria, 275 substances that represent the greatest concern to public health. Using the current algorithm, a total of 859 candidate substances have been analyzed and ranked. Of these candidates, the 275 substances on the priority list may in the future become subjects of toxicological profiles.

In 2 years ATSDR intends to publish the next revised list of hazardous substances, with an informal review and revision performed in 1 year. These revisions will reflect changes and improvements in data collection and in availability. Additional information on the existing methodology used in the development of the CERCLA Priority List of Hazardous Substances can be found in the List Support Document and in the above-referenced **Federal Register** notices.

In addition to the revised priority list, ATSDR is also releasing a Completed Exposure Pathway Site Count Report. A completed exposure pathway (CEP) links a contaminant source to a receptor population. The CEP ranking is similar to a subcomponent of the listing algorithm's potential-for-human-exposure component. The CEP ranking is based on a site frequency count and thus lists the number of sites at which a substance has been found in a CEP. ATSDR's HazDat database contains this information, which is derived from ATSDR public health assessments and from health consultations. The CEP report therefore focuses on documented exposure, and lists hazardous substances according to exposure frequency. Because exposure to hazardous substances is a matter of concern, ATSDR publishes this CEP report together with the CERCLA Priority List of Hazardous Substances.

The substances in the CEP report are similar to those in the CERCLA Priority List of Hazardous Substances. Substances are listed in the CEP report because they are frequently found in completed exposure pathways. Some of these substances, however, have a very low toxicity (e.g., sodium) and as a result are not included in the CERCLA Priority List. As stated, given that the CERCLA Priority List uses toxicity, frequency of occurrence, and potential for human exposure to determine its priority substances, other low-toxicity substances will not appear on the CERCLA Priority List and, consequently, will not become subjects of toxicological profiles. In addition, because CERCLA mandates the preparation of the Priority List, that list only incorporates data from CERCLA NPL sites. The CEP report, on the other hand, uses data from all ATSDR-activity sites at which a CEP has been detected.

[3] 42 U.S.C. 9604(i)(2)(A).

Ken Rose,

Associate Director, Office of Policy, Planning and Evaluation, National Center for Environmental Health/Agency for Toxic Substances and Disease Registry.

[FR Doc. E8–4339 Filed 3–5–08; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number NIOSH–120]

Notice of Draft Document Available for Public Comment

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the availability of the following draft document available for public comment entitled ''NIOSH Alert: Preventing Chronic Beryllium Disease and Beryllium Sensitization.'' The document and instructions for submitting comments can be found at *http://www.cdc.gov/niosh/review/public/120/.*

Public Comment Period: March 6, 2008 through May 12, 2008.

Status: Written comments may be submitted to the NIOSH Docket Office, Robert A. Taft Laboratories, 4676 Columbia Parkway, Mailstop C–34, Cincinnati, Ohio 45226, (513) 533–8611. All material submitted to the Agency should reference NIOSH Docket number 120 and must be submitted by May 12, 2008, to be considered by the Agency. All electronic comments should be formatted as Microsoft Word.

All information received in response to this notice will be available for public examination and copies available at the NIOSH Docket Office, Room 111, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

Background: Beryllium is a lightweight metal with many remarkable properties, including heat resistance and conductance, electrical conductance, flexibility, formability, neutron moderation, x-ray transparency, and lubricity. Exposure to beryllium can lead to sensitization, a cell-mediated allergic-type response, and cause a granulomatous lung disease called chronic beryllium disease.

The Alert describes the nature of the lung disease and other health effects that can occur from exposure to beryllium and beryllium-containing materials and recommends steps companies and workers should take to minimize the health risk to workers. This guidance document does not have the force and effect of law.

Contact Person for Technical Information: Christine R. Schuler, PhD, Research Epidemiologist, Division of Respiratory Disease Studies, NIOSH. To ask technical questions, please call (304) 285–6369 or send e-mail to *BeAlert@cdc.gov.* All comments on the Alert must be submitted as stated in the Status section.

Reference: NIOSH Alert: Preventing Chronic Beryllium Disease and Beryllium Sensitization *http://www.cdc.gov/niosh/review/public/120/.*

Dated: February 29, 2008.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–4332 Filed 3–5–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Public Meeting

AGENCY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the availability of the following meeting and request for information:

Opportunity To Provide Input regarding a protocol for the following: (1) An industry wide research study to evaluate occupational exposure to flavorings in the flavorings and food production industries; (2) an industry wide study of engineering controls for protection against exposure to flavorings in the flavorings and food manufacturing industries; and (3) research concerning improved analytical laboratory methods for use in flavorings and food production exposure assessment.

Public Meeting Time and Date: 9 a.m.–4 p.m., April 2, 2008.

Place: NIOSH Hamilton Laboratory, 5555 Ridge Ave, Cincinnati, OH, 45213, telephone (513) 841–4366, fax (513) 841–4483.

Status: Meeting is open to the public, limited only by the space available (the room accommodates approximately 80 people). Persons who are not U.S. citizens will need approval to enter the NIOSH building and should contact Douglas Trout, MD, MHS, by March 5, 2008, to arrange for this. Those who cannot attend in person are encouraged to email comments. Deadline for e-mailed comments is April 16, 2008.

Background: According to 2002 U.S. Census data, there were approximately 21,000 employees working in flavoring production and about 1.5 million workers in food manufacturing nationwide. Employees have complex exposures in terms of the physical form of the agents (solid, liquid, and gas) and the number of different chemicals used. Severe respiratory health effects have been identified among workers after exposure to flavoring chemicals such as diacetyl (a component of butter flavoring). NIOSH investigators have begun a research effort evaluating analytical methods, exposure assessment, and engineering controls in the flavoring and food production industries. This research is intended to provide information necessary to reduce occupational exposures and prevent health effects among workers in these industries.

The meeting will consist of two parts: (1) External peer review of the research protocol. Peer reviewers external to CDC will be present to provide technical (scientific) review comments for the project officers to maximize the relevance and quality of the proposed research; and (2) Stakeholder meeting. The latter part of the meeting will be structured to hear stakeholder comments on important occupational safety and health issues related to this research.

Participants wishing to provide stakeholder comments may do so via E-mail or may request an opportunity to make a five minute presentation. Participants making a presentation at the meeting must submit their comments in writing at the time of the meeting. All participants (whether making a presentation or not) are requested to register for the free meeting by sending an E-mail to *DTrout@cdc.gov* with their name, affiliation, whether they are requesting time to speak briefly, and, if so, the general topic(s) on which they wish to speak. Participants wishing to speak are encouraged to register early. The public meeting is open to everyone, including all workers, representatives of professional societies, organized labor, employers, researchers, health professionals, government officials and elected officials. Broad participation is desired.

Contact Person For Technical Information: Dr. Douglas Trout, MD, MHS, Associate Director for Science, Division of Surveillance, Hazard Evaluations, and Field Studies, NIOSH, telephone (513) 841–4428. Comments and meeting registrations may also be E-mailed to *DTrout@cdc.gov*, or sent via mail to: Dr. Douglas Trout, NIOSH, 4676 Columbia Parkway, R–12, Cincinnati, OH 45226.

Dated: February 27, 2008.

James D. Seligman,

Chief Information Officer, Centers for Disease Control and Prevention.

[FR Doc. E8–4333 Filed 3–5–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers of Disease Control and Prevention

Notice of Public Meeting

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC) announces the following meeting and request for public comment on the NIOSH Research Project entitled ''Effectiveness of Extension Ladder Safety Innovations''. The meeting will include a presentation/overview of the project that will be followed by comments on the technical and scientific aspects of the planned research. Viewpoints and suggestions from industry, labor, academia, other government agencies, and the public are invited. Written comments also will be considered. Written comments should be sent to Dr. Peter Simeonov, NIOSH, Division of Safety Research, Mailstop G800, 1095 Willowdale Road, Morgantown, West Virginia 26505–2888 or via E-mail at *psimeonov@cdc.gov*, and should be received on or before March 31, 2008.

Public Meeting Time and Date: 9 a.m.–12 p.m., April 9, 2008.

Place: NIOSH, 1095 Willowdale Road, Conference Room L–1BCD, Morgantown, West Virginia 26505–2888.

Purpose of Meeting: To provide individual comments on the technical and scientific aspects of the research proposal directed to the prevention of fall injuries associated with the use of extension ladders among construction workers. The proposed research seeks to establish engineering solutions, with human factors considerations beyond the traditional regulation and training approaches, to minimize the possibility of workers making unsafe choices or actions, and thus reduce fall-from-ladder incidents.

Status: The meeting is open to the public, limited only by the space available (the room accommodates approximately 50 people). Due to limited space, notification of intent to attend the meeting must be made to Peter Simeonov, Ph.D., no later than March 31. Dr. Simeonov can be reached at (304) 285–6268 or by E-mail at *psimeonov@cdc.gov*. Requests to attend the meeting will be accommodated on a first-come basis.

Contact Persons for Technical Information: Hongwei Hsiao and Dr. Simeonov, Project Officers, Division of Safety Research, NIOSH, CDC, Mailstop G800, 1095 Willowdale Road, Morgantown, West Virginia 26505–2888, (304) 285–5910 and (304) 285–6268, E-mail *hhsiao@cdc.gov* & *psimeonov@cdc.gov*. Copies of the research proposal may be obtained by contacting Dr. Simeonov.

Dated: February 27, 2008.

James D. Seligman,

Chief Information Office, Centers for Disease Control and Prevention.

[FR Doc. E8–4334 Filed 3–5–08; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0119]

Canned Pacific Salmon Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Yardarm Knot Fisheries, LLC, to market test canned Pacific salmon that deviates from the U.S. standard of identity for canned Pacific salmon. The purpose of the temporary permit is to

allow the applicant to measure consumer acceptance of the product and assess commercial feasibility.

DATES: This permit is effective for 15 months, beginning on the date the permit holder introduces or causes the introduction of the test product into interstate commerce, but not later than June 6, 2008.

FOR FURTHER INFORMATION CONTACT: Ritu Nalubola, Center for Food Safety and Applied Nutrition (HFS–820), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–2371.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity issued under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Yardarm Knot Fisheries, LLC, 3600 15th Ave. West, suite 300, Seattle, WA 98119.

The permit covers limited interstate marketing tests of a product identified as Yardarm Knot ''Skinless and Boneless Sockeye Salmon.'' This canned salmon product may deviate from the U.S. standard of identity for canned Pacific salmon (§ 161.170 (21 CFR 161.170)) in that the product is prepared by removing the skin and bones of the salmon used. Therefore, in addition to the optional forms of pack provided in § 161.170(a)(3), this temporary marketing permit provides for an alternative ''skinless and boneless'' form of pack. The test product meets all the requirements of the standard with the exception of the ''skinless and boneless'' form of pack. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the product, identify mass production problems, and assess commercial feasibility.

This permit provides for the temporary marketing of not more than 1.35 million pounds (or 612 thousand kilograms) of the test product. The test product will be manufactured by Yardarm Knot Fisheries, LLC, at Mile 1.5 Alaska Peninsula Highway, Naknek, Alaska 99633. The test product will be distributed by Yardarm Knot Fisheries, LLC, throughout the United States. The information panel of the label will bear nutrition labeling in accordance with 21 CFR 101.9. Each of the ingredients used in the food will be declared on the label as required by the applicable sections of 21 CFR part 101. This permit is effective for 15 months, beginning on the date the permit holder introduces or causes the introduction of the product into interstate commerce, but not later than (see **DATES**).

Dated: February 28, 2008.

Barbara Schneeman,

Director, Office of Nutritional Products, Labeling and Dietary Supplements, Center for Food Safety and Applied Nutrition.

[FR Doc. E8–4316 Filed 3–5–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–D–0128] (formerly Docket No. 2007D–0396)

Draft Guidance for Industry on Drug-Induced Liver Injury: Premarketing Clinical Evaluation; Reopening of Comment Period; Public Conference

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of reopening of comment period; notice of public conference.

SUMMARY: The Food and Drug Administration (FDA) is reopening until June 30, 2008, the comment period for the draft guidance for industry entitled ''Drug-Induced Liver Injury: Premarketing Clinical Evaluation,'' published in the **Federal Register** of October 25, 2007 (72 FR 60681). FDA is also announcing a public conference entitled ''Detecting and Investigating Drug-Induced Liver Injury During Clinical Trials.'' FDA is cosponsoring the conference with the American Association for the Study of Liver Diseases (AASLD) and the Pharmaceutical and Research Manufacturers of America. The purpose of the conference is to discuss the draft guidance and to solicit additional input on the issues and questions presented in this document.

DATES: The public conference will be held on March 26, 2008, from 8 a.m. to 6 p.m. and March 27, 2008, from 8 a.m. to 3 p.m. Please register by March 14, 2008, to make an oral presentation during the open public session on March 27, 2008. Submit written or electronic comments on the draft guidance, the conference program and presentations, and the issues and questions presented in this document by June 30, 2008.

ADDRESSES: The public conference will be held at the National Labor College (NLC), 10000 New Hampshire Ave., Silver Spring, MD 20903.

Submit written comments 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 draft guidance document.

FOR FURTHER INFORMATION CONTACT: Lana L. Pauls, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, e-mail: *lana.pauls@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Reopening of Comment Period for the Draft Guidance

In the **Federal Register** of October 25, 2007, FDA issued the draft guidance ''Drug-Induced Liver Injury: Premarketing Clinical Evaluation'' and invited comments by December 24, 2007. This draft guidance describes methods for detecting drug-induced liver injury (DILI) that may occur during the course of conducting controlled clinical trials. To provide interested persons additional time to review the draft guidance and submit comments, the agency is reopening the comment period until June 30, 2008.

II. The Public Conference

A. Why Are We Holding This Public Conference?

The purpose of the conference is to discuss the draft guidance and issues that it may raise and to solicit additional input on the issues and questions presented in this document.

B. What Are the Topics We Intend to Address at the Conference?

We hope to discuss a large number of issues at the conference, including, but not limited to:

- The approach to detecting the potential for severe DILI described in the draft guidance;
- What stopping rules should govern the administration of an investigational agent during a clinical trial;
- When should rechallenge of a suspected injurious agent be considered;
- Should patients or study participants with stable chronic liver disease be included in clinical trials; and
- Other issues and questions raised by the conference attendees or others.

C. Is There a Fee and How Do I Register for the Conference?

There is a modest fee to attend the conference, to defray the costs of meals provided, rental of the NLC meeting facility, travel expenses for invited

academic (but not government or industry) speakers, and other expenses. The fee for the 2-day meeting for registrants from industry is $350, and the fee for academic or government registrants is $175. Fees will be waived for invited speakers and moderators.

The registration process will be handled by AASLD, which has extensive experience in planning, executing, and organizing educational meetings. Register online at *http://www.aasld.org*. Although the NLC facility is spacious, registration will be on a first-come, first-served basis. If you would like to make an oral presentation during the open hour of the conference on March 27, 2008, you must register with Lana Pauls (see **FOR FURTHER INFORMATION CONTACT**) by close of business on March 14, 2008. To make a presentation, you will be asked to provide your name, title, business affiliation (if applicable), address, and type of organization you represent (e.g., industry, consumer organization). Persons registered to make an oral presentation should check in before the conference. If you need special accommodations because of a disability, please contact Lana Pauls at least 7 days before the conference.

D. Where Can I Find Out More About This Public Conference?

Background information on the conference, registration information, the agenda, information about lodging, and other relevant information will be posted, as it becomes available, on the Internet at *http://www.fda.gov/cder/livertox* and *http://www.aasld.org*.

E. Conference Transcripts

We will prepare a transcript of the conference presentations and discussions and will post it online along with copies of slides shown. The transcript will be available for review on the Internet at *http://www.fda.gov/cder/livertox* approximately 30 days after the conference.

III. Comments

Interested persons may submit to the Division of Dockets Management (see **ADDRESSES**) written or electronic comments regarding the draft guidance and the issues and questions presented in this document or at the conference. 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 Web site transitioned to the Federal Dockets Management System (FDMS). FDMS is a Government-wide, electronic docket management system. Electronic submissions will be accepted by FDA through FDMS only.

IV. Electronic Access

Persons with access to the Internet may obtain the document at either *http://www.fda.gov/cder/guidance/index.htm* or *http://www.fda.gov/ohrms/dockets/default.htm*.

Dated: February 29, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–4361 Filed 3–5–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Summaries of Medical and Clinical Pharmacology Reviews of Pediatric Studies; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of summaries of medical and clinical pharmacology reviews of pediatric studies submitted in supplements for BETOPTIC (betaxolol), LAMICTAL (lamotrigine), LEVAQUIN (levofloxacin), RISPERDAL (risperidone), and TIMOLOL (timolol). These summaries are being made available consistent with the Best Pharmaceuticals for Children Act (the BPCA). For all pediatric supplements submitted under the BPCA, the BPCA requires FDA to make available to the public a summary of the medical and clinical pharmacology reviews of the pediatric studies conducted for the supplement.

ADDRESSES: Submit written requests for single copies of the summaries to the Division of Drug Information (HFD–240), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857. Please specify by product name which summary or summaries you are requesting. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the summaries.

FOR FURTHER INFORMATION CONTACT: Grace Carmouze, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, rm. 6460, Silver Spring, MD 20993–0002, 301–796–0700, e-mail: *grace.carmouze@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of summaries of medical and clinical pharmacology reviews of pediatric studies conducted for BETOPTIC (betaxolol), LAMICTAL (lamotrigine), LEVAQUIN (levofloxacin), RISPERDAL (risperidone), and TIMOLOL (timolol). The summaries are being made available consistent with section 9 of the BPCA (Public Law 107–109). Enacted on January 4, 2002, the BPCA reauthorizes, with certain important changes, the pediatric exclusivity program described in section 505A of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355a). Section 505A of the act permits certain applications to obtain 6 months of marketing exclusivity if, in accordance with the requirements of the statute, the sponsor submits requested information relating to the use of the drug in the pediatric population.

One of the provisions the BPCA added to the pediatric exclusivity program pertains to the dissemination of pediatric information. Specifically, for all pediatric supplements submitted under the BPCA, the BPCA requires FDA to make available to the public a summary of the medical and clinical pharmacology reviews of pediatric studies conducted for the supplement (21 U.S.C. 355a(m)(1)). The summaries are to be made available not later than 180 days after the report on the pediatric study is submitted to FDA (21 U.S.C. 355a(m)(1)). Consistent with this provision of the BPCA, FDA has posted on the Internet at *http://www.fda.gov/cder/pediatric/index.htm* summaries of medical and clinical pharmacology reviews of pediatric studies submitted in supplements for BETOPTIC (betaxolol), LAMICTAL (lamotrigine), LEVAQUIN (levofloxacin), RISPERDAL (risperidone), and TIMOLOL (timolol). Copies are also available by mail (see **ADDRESSES**).

II. Electronic Access

Persons with access to the Internet may obtain the document at *http://www.fda.gov/cder/pediatric/index.htm*.

Dated: February 29, 2008.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. E8–4426 Filed 3–5–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel; Comparative Medicine SEP–1 (08).

Date: March 27, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 1 Democracy Plaza, 6701 Democracy Blvd., Room 1078, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Steven Birken, PhD, Scientific Review Officer, National Center for Research Resources, or National Institutes of Health, 6701 Democracy Boulevard, One Democracy Plaza, Room 1078, MSC 4874, Bethesda, MD 20892–4874, 301–435–0815, *birkens@mail.nih.gov.*

Name of Committee: National Center for Research Resources Special Emphasis Panel; 2008 NCRR Loan Repayment Review.

Date: April 24, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, 6701 Democracy Boulevard, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Bonnie Dunn, PhD, Scientific Review Officer, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Blvd., 1 Dem. Blvd., Rm. 1074, Bethesda, MD 20892–4874, (301) 435–0824, *dunnbo@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure, 93.306, 93.333, National Institutes of Health, HHS)

Dated: February 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–963 Filed 3–5–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel, Time Perception and Timed Performance in Autism.

Date: March 11, 2008.

Time: 3:15 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Carla T. Walls, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.964, 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: February 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–957 Filed 3–5–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Child Health and Human Development Special Emphasis Panel; Innovation Therapies and Clinical Studies For Screenable Disorders.

Date: March 28, 2008.

Time: 12 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6100 Executive Boulevard, 5B01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Norman Chang, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 496–1485, *changn@mail.nih.gov.*

(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: February 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–958 Filed 3–5–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Children's Study Advisory Committee.

The meetings 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: National Children's Study Advisory Committee; Community Outreach and Engagement Subcommittee.

Date: March 25, 2008.

Time: 2 p.m. to 5 p.m.

Agenda: The agenda items will include continued discussions on community representation and community engagement. For questions or to register call Circle Solutions at (703) 902–1339 or via e-mail *ncs@circlesolutions.com*. Registration deadline is noon on January 29, 2008. Public observers must attend in person at 6100 Executive Blvd, Room 7B01.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jessica Sapienza, Committee Liaison Officer, National Children's Study, Division of Epidemiology, Statistics, and Prevention Research, NICHD, NIH, 6100 Executive Blvd., Room 5C01, Bethesda, MD 20892, (703) 902–1339, *ncsinfo@mail.nih.gov.*

Name of Committee: National Children's Study Advisory Committee; Ethics Subcommittee.

Date: March 26, 2008.

Time: 1 p.m. to 3 p.m.

Agenda: The agenda items will include continued discussions on revealing findings and data access. For questions or to register call Circle Solutions at (703) 902–1339.

Place: National Institutes of Health, 6100 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jessica Sapienza, Committee Liaison Officer, National Children's Study, Division of Epidemiology Statistics, and Prevention Research, NICHD, NIH, 6100 Executive Blvd., Room 5C01, Bethesda, MD 20892, (703) 902–1339 *ncsinfo@mail.nih.gov*.

This meeting is being published less than 15 days prior to the meeting due to timing limitations imposed by administrative matters.

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.

(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: February 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–959 Filed 3–5–08 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Program Project in Drug Interactions.

Date: March 25, 2008.

Time: 2:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute of General Medical Sciences, Natcher Building, 45 Center Drive, 3AN–18, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Carole H. Latker, PhD., Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN–18, Bethesda, MD 20892, (301) 594–2448, *latkerc@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Large-Scale Collaborative Project Award Renewals.

Date: March 28, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, Bethesda, MD 20814.

Contact Person: Brian R. Pike, PhD., Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18, Bethesda, MD 20892, (301) 594–3907, *pikbr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–960 Filed 3–5–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; Review of Exploratory and Developmental Alcohol Research Center Grant Applications (P20) RFA AA 08 003.

Date: May 28, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Georgetown Suites, 1000 29th Street, NW., Lower Level Conference Room, Washington, DC 20007.

Contact Person: Abraham P. Bautista, PhD, Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse & Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm 3039, Rockville, MD 20852, 301–443–9737, *bautista@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS).

Dated: February 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–961 Filed 3–5–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Alcohol Abuse and Alcoholism; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The 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 on Alcohol Abuse and Alcoholism Special Emphasis Panel; Review of Fellowship (F31) Applications on HIV/AIDS.

Date: April 29, 2008

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Alcohol Abuse and Alcoholism, 5635 Fishers Lane, Rm 3039, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Abraham P. Bautista, PhD, Chief, Extramural Project Review Branch, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, 5635 Fishers Lane, Rm 3039, Rockville, MD 20852, 301–443–9737, *bautista@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.271, Alcohol Research Career Development Awards for Scientists and Clinicians; 93.272, Alcohol National Research Service Awards for Research Training; 93.273, Alcohol Research Programs; 93.891, Alcohol Research Center Grants, National Institutes of Health, HHS)

Dated: February 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–962 Filed 3–5–08; 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 Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Ancillary Study Review.

Date: March 18, 2008.

Time: 3:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

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.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Identification of Factors Associated with Failure of Arteriovenous Fistulas to Mature in Hemodyalysis Patients.

Date: March 26, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Paul A. Rushing, PhD., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Ancillary Studies in the Area of Hepatitis.

Date: April 2, 2008.

Time: 12 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maria E. Davila-Bloom, PhD., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 758, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7637, *davila-bloomm@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Kidney Stone Program Project.

Date: April 10, 2008.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Lakshmanan Sankaran, PhD., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 755, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7799, *ls38oz@nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel. Loan Repayment Program Review.

Date: May 2, 2008.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: D. G. Patel, PhD., Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 756, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7682, *pateldg@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Disease and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–964 Filed 3–05–08; 8:45am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; 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 Child Health and Human Development Initial Review Group, Population Sciences Subcommittee.

Date: March 27–28, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Carla T. Walls, PhD., Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6898, *wallsc@mail.nih.gov*.

(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: February 28, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–965 Filed 3–5–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2008–0025]

Notification of the Imposition of Conditions of Entry for Certain Vessels Arriving to the United States; Syria

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that it will impose conditions of entry on vessels arriving from the country of Syria.

DATES: The policy announced in this notice will become effective March 20, 2008.

ADDRESSES: This notice will be available for inspection and copying at the Docket Management Facility at the U.S. Department of Transportation, 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.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call Mr. Michael Brown, International Port Security Evaluation Division, Coast Guard, telephone 202–372–1081. 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:

Background and Purpose

Section 70110 of the Maritime Transportation Security Act of 2002 (Pub. L. 107–295, Nov. 25, 2002) provides that the Secretary of Homeland Security may impose conditions of entry on vessels requesting entry into the United States arriving from ports that are not maintaining effective anti-terrorism measures. The Coast Guard has been delegated the authority by the Secretary to carry out the provisions of this section. The Docket contains previous notices imposing or removing conditions of entry on vessels arriving from certain countries and those conditions of entry and the countries they pertain to remain in effect unless modified by this notice.

The Coast Guard has determined that ports in Syria are not maintaining effective anti-terrorism measures. Accordingly, effective March 20, 2008 the Coast Guard will impose the following conditions of entry on vessels that visited ports in Syria during their last five port calls. Vessels must:

- Implement measures per the ship's security plan equivalent to Security level 2 while in a port in the above country;
- Ensure that each access point to the ship is guarded and that the guards have total visibility of the exterior (both landside and waterside) of the vessel while the vessel is in ports in the above country. Guards may be provided by the ship's crew, however, additional crewmembers should be placed on the ship if necessary to ensure that limits on maximum hours of work are not exceeded and/or minimum hours of rest are met, or provided by outside security forces approved by the ship's master and Company Security Officer;
- Attempt to execute a Declaration of Security while in a port in the above country;
- Log all security actions in the ship's log;
- Report actions taken to the cognizant U.S. Coast Guard Captain of the Port prior to arrival into U.S. waters; and
- Ensure that each access point to the ship is guarded by armed, private security guards and that they have total visibility of the exterior (both landside and waterside) of the vessel while in U.S. ports. The number and position of the guards has to be acceptable to the cognizant Coast Guard Captain of the Port prior to the vessel's arrival.

With this notice, the current list of countries not maintaining effective anti-terrorism measures is as follows: Cameroon, Equatorial Guinea, Guinea-Bissau, Indonesia, Liberia, Mauritania, and Syria.

Dated: February 29, 2008.

Rear Admiral David Pekoske, USCG,

Assistant Commandant for Operations.

[FR Doc. 08–975 Filed 3–3–08; 3:22pm]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Dates for the Ports of Newport News, VA; Panama City, FL; San Diego, CA; Gulfport, MS; Key West, FL; and Traverse City, MI

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the dates for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Ports of Newport News, VA; Panama City, FL; San Diego, CA; Gulfport, MS; Key West, FL; and Traverse City, MI.

DATES: TWIC enrollment begins in Newport News and Panama City on March 12, 2008; San Diego on March 13, 2008; Gulfport and Key West on March 19, 2008; and Traverse City on March 20, 2008.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *www.regulations.gov;*

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*; or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov.*

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Public Law 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Public Law 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Ports of Newport News, VA and Panama City, FL on March 12, 2008; San Diego, CA on March 13, 2008; Gulfport, MS and Key West, FL on March 19, 2008; and Traverse City, MI on March 20, 2008. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone Hampton Roads, including those in the Port of Newport News; Captain of the Port Zone Mobile, including those in the Ports of Panama City and Gulfport; Captain of the Port Zone San Diego, including those in the Port of San Diego; Captain of the Port Zone Miami, including those in the Port of Key West; and Captain of the Port Zone Milwaukee, including those in the Port of Traverse City must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic.*

Issued in Arlington, Virginia, on February 28, 2008.

Rex Lovelady,

Program Manager, TWIC, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E8–4286 Filed 3–5–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–10]

Subpoenas and Production in Response to Subpoenas or Demands of Courts or Other Authorities

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 requested information will detail the issues and reasons why a review of the Counsel's decision denying a request for documents or testimony is appropriate.

DATES: *Comments Due Date:* April 7, 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 (2535–0119) 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: Subpoenas and Production in Response to Subpoenas or Demands of Courts or Other Authorities.

OMB Approval Number: 2535–0119.

Form Numbers: None.

Description of the Need for the Information and Its Proposed Use:

The requested information will detail the issues and reasons why a review of the Counsel's decision denying a request for documents or testimony is appropriate.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	5	2		5		50

Total Estimated Burden Hours: 50.

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: February 28, 2008.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E8–4307 Filed 3–5–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5187–N–09]

Third-Party Documentation Facsimile Transmittal Form

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.

Facsimile transmittal information is necessary for submission of third-party documentation as part of an application for funding competitions.

DATES: *Comments Due Date: April 7, 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 (2535–0118) 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: Third-Party Documentation Facsimile Transmittal Form.

OMB Approval Number: 2535–0118.

Form Numbers: HUD–96011.

Description of the Need for the Information and Its Proposed Use:

Facsimile transmittal information is necessary for submission of third-party documentation as part of an application for funding competitions.

Frequency of Submission: Annually.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden	33,000	1		1		3,300

Total Estimated Burden Hours: 3,300

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: February 28, 2008.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E8–4308 Filed 3–5–08; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5030–FA–08]

Announcement of Funding Awards for the Community Development Technical Assistance Programs Fiscal Year 2006

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Community Development Technical Assistance programs. This announcement contains the names of the awardees and the amounts of the awards made available by HUD.

FOR FURTHER INFORMATION CONTACT: Mark A. Horwath, Director, Office of Technical Assistance and Management, Office of Community Planning and Development, 451 Seventh Street, SW., Room 7218, Washington, DC 20410–7000; telephone (202) 402–2576 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Relay Service toll-free at (800) 877–8339. For general information on this and other HUD programs, call Community Connections at 1–800–998–

9999 or visit the HUD Web site at *http://www.hud.gov*.

SUPPLEMENTARY INFORMATION: The Fiscal Year 2006 Community Development Technical Assistance program was designed to increase the effectiveness of HUD's HOME Investment Partnerships Program (HOME), CHDO (HOME) program, Youthbuild program, McKinney-Vento Homeless Assistance programs (Homeless), and Housing Opportunities for Persons with AIDS (HOPWA) program through the selection of technical assistance (TA) providers for these five programs.

The competition was announced in the SuperNOFA published March 8, 2006. The CD–TA NOFA was reopened on June 14, 2006 and closed on June 27, 2006 for those applicants located in areas designated by the President as disaster areas as a result of severe storms and flooding in Maine, Massachusetts and New Hampshire. The NOFA allowed for approximately $19.7 million for CD–TA grants. Applications were rated and selected for funding on the basis of selection criteria contained in that Notice. For the Fiscal Year 2006 competition, 52 awards, totaling $19,613,630 were awarded to 42 distinct technical assistance providers nationwide.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and the amounts of the awards in Appendix A to this document.

Dated: January 8, 2008.

Nelson R. Bregon,

General Deputy Assistant Secretary for Community Planning and Development.

APPENDIX A.—FISCAL YEAR 2006 FUNDING AWARDS FOR COMMUNITY DEVELOPMENT TECHNICAL ASSISTANCE PROGRAMS

Recipient	State	Amount
State of Alaska Housing Finance Corporation	AK	$30,000
Rural Community Assistance Corporation	CA	545,000
Housing Assistance Council	DC	180,000
NCB Development Corporation	DC	280,000
National Council on Agricultural Life & Labor Research Fund	DE	75,000
Housing Action of Illinois	IL	125,000
Community Economic Development Assistance Corporation (CEDAC)	MA	125,000
Enterprise Community Partners	MD	350,000
Michigan State Housing Development Authority	MI	225,000
Minnesota Housing Partnership	MN	140,000
Coalition for Healthy African-American Relations & Marriages	MO	20,000
Mississippi Home Corporation	MS	125,000
The Affordable Housing Group of NC, Inc.	NC	95,000
Training & Development Associates, Inc.	NC	1,980,000
Local Initiatives Support Corporation	NY	1,903,249
New York State Rural Housing Coalition, Inc.	NY	60,000
Structured Employment Economic Development Corporation (SEEDCO)	NY	778,751
Ohio Capital Corporation for Housing	OH	58,000
Ohio CDC Association	OH	58,000
Neighborhood Partnership Fund	OR	80,000
Douglas-Cherokee Economic Authority, Inc.	TN	150,000
Community Frameworks (aka Northwest Regional Facilitators)	WA	50,000
Impact Capital	WA	50,000
Urban Strategies	WI	30,000
Wisconsin Partnership for Housing Development, Inc.	WI	160,000
Total CHDO		7,673,000
Dennison Associates	DC	200,000
ICF Incorporated, L.L.C.	VA	1,780,000
Total HOME		1,980,000
State of Alaska Housing Finance Corporation	AK	30,000
HomeBase/The Center for Common Concerns	CA	200,000
Rural Community Assistance Corporation	CA	60,000
Dennison Associates	DC	945,000
Illinois Community Action Association	IL	72,500
Homeless & Housing Coalition of Kentucky	KY	40,000
Abt Associates	MA	2,088,000
Canavan Associates	MA	501,085
Technical Assistance Collaborative, Inc.	MA	338,500
University of Massachusetts at Boston	MA	75,000
Enterprise Community Partners	MD	175,000
Minnesota Housing Partnership	MN	52,000
Training & Development Associates, Inc.	NC	641,000
New Mexico Coalition to End Homelessness	NM	50,000
Center for Urban Community Services, Inc.	NY	230,050
Corporation for Supportive Housing	NY	25,000
The Nassau-Suffolk Coalition for the Homeless, Inc.	NY	99,950
Coalition on Homelessness and Housing in Ohio	OH	62,500
Douglas-Cherokee Economic Authority, Inc.	TN	40,000
ICF Incorporated, L.L.C.	VA	663,500

APPENDIX A.—FISCAL YEAR 2006 FUNDING AWARDS FOR COMMUNITY DEVELOPMENT TECHNICAL ASSISTANCE PROGRAMS—Continued

Recipient	State	Amount
AIDS Housing of Washington	WA	112,000
Total HOMELESS	.....	6,501,085
ICF Incorporated, L.L.C.	VA	600,000
AIDS Housing of Washington	WA	384,545
Total HOPWA	.....	984,545
YouthBuild USA, Inc.	MA	1,475,000
Heartlands International, Inc.	VA	1,000,000
Total YOUTHBUILD	.....	2,475,000
Grand Total	.....	19,613,630

[FR Doc. E8–4309 Filed 3–5–08; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5030–FA–03]

Announcement of Funding Awards for the Housing Counseling Program for Fiscal Year 2006

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Announcement of funding awards.

SUMMARY: In accordance with Section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 3545), this announcement notifies the public of funding decisions made by the Department in a Super Notice of Funding Availability (NOFA) competition for funding of HUD-approved counseling agencies to provide counseling services. Appendix A contains the names and addresses of the agencies competitively selected for funding and the award amounts. Intermediaries are listed first and subsequent awards are grouped by their respective HUD Homeownership Center. Additionally, this announcement lists the noncompetitive housing counseling awards made by the Department.

FOR FURTHER INFORMATION CONTACT: Ruth Román, Director, Program Support Division, Office of Single Family Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 9274, Washington, DC 20410–8000, telephone (202) 708–0317. Hearing- or speech-impaired individuals may access this number by calling the Federal Information Relay Service on (800) 877–8339. (This is a toll free number.)

SUPPLEMENTARY INFORMATION: The Housing Counseling Program is authorized by Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x). HUD enters into agreement with qualified public or private nonprofit organizations to provide housing counseling services to low- and moderate-income individuals and families nationwide. The services include providing information, advice and assistance to the homeless, renters, first-time homebuyers, homeowners, and senior citizens in areas such as pre-purchase counseling, financial management, property maintenance and other forms of housing assistance to help individuals and families improve their housing conditions and meet the responsibilities of tenancy and homeownership.

HUD funding of approved housing counseling agencies is not guaranteed and when funds are awarded, a HUD grant does not cover all expenses incurred by an agency to deliver housing counseling services. Counseling agencies must actively seek additional funds from other sources such as city, county, state and federal agencies and from private entities to ensure that they have sufficient operating funds. The availability of Housing Counseling grants depends upon appropriations and the outcome of the award competition.

The 2006 grantees announced in Appendix A of this notice were selected for funding through a competition announced in a NOFA published in the **Federal Register** on March 8, 2006 (71 FR 11800), for the Housing Counseling Program. Applications were scored and selected for funding on the basis of selection criteria contained in the NOFA. HUD awarded $39,052,820 in housing counseling grants to 420 housing counseling organizations nationwide: 385 local agencies, 17 intermediaries, and 18 state housing finance agencies. Included in this figure is: $3,000,000 awarded to two intermediaries in supplemental funding for Home Equity Conversion Mortgage (HECM) counseling. These funds will provide counseling for the rapidly growing numbers of elderly homeowners who seek to convert equity in their homes in income that can be used to pay for home improvement, medical costs and other living expenses.

The Catalog of Federal Domestic Assistance number for the Housing Counseling Program is 14.169.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix A of this document.

Dated: February 22, 2008.

Brian D. Montgomery,

Assistant Secretary for Housing-Federal Housing Commissioner.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS

INTERMEDIARY ORGANIZATIONS (17)

ACORN HOUSING CORPORATION, 846 N. Broad St., 2nd floor, Philadelphia, PA 19130–2234, Grant Type: Comprehensive, Amount Awarded: $1,821,596.	NATIONAL COUNCIL OF LA RAZA, 1126 16th Street, NW., Suite 600, Washington, DC 20036, Grant Type: Comprehensive, Amount Awarded: $1,145,894.
CATHOLIC CHARITIES USA, 1731 King Street, Alexandria, VA 22314–2720, Grant Type: Comprehensive, Amount Awarded: $782,088.	NATIONAL CREDIT UNION FOUNDATION, 601 Pennsylvania Avenue, NW., South Building, Suite 600, Washington, DC 20004–2601, Grant Type: Comprehensive, Amount Awarded: $1,000,372.
CITIZENS' HOUSING AND PLANNING ASSOCIATION, INC., 18 Tremont Street, Suite 401, Boston, MA 02108, Grant Type: Comprehensive, Amount Awarded: $901,000.	NATIONAL FOUNDATION FOR CREDIT COUNSELING, INC., 801 Roeder Road, Suite 900, Silver Spring, MD 20910–3372, Grant Type: Comprehensive, Amount Awarded: $1,916,984.
HOMEFREE-U.S.A, 318 Riggs Rd., NE., Washington, DC 20011–2534, Grant Type: Comprehensive, Amount Awarded: $1,218,655.	NATIONAL URBAN LEAGUE, 120 Wall Street, New York, NY 10005, Grant Type: Comprehensive, Amount Awarded: $636,566.
MISSION OF PEACE, 877 East Fifth Ave., Flint, MI 48503, Grant Type: Comprehensive, Amount Awarded: $563,805.	NEIGHBORHOOD REINVESTMENT CORPORATION, 1325 G St., NW., Suite 800, Washington, DC 20005–3104, Grant Type: Comprehensive, Amount Awarded: $1,291,416.
MON VALLEY INITIATIVE, 303–305 E. 8th Avenue, Homestead, PA 15120–1517, Grant Type: Comprehensive, Amount Awarded: $1,000,000.	RURAL COMMUNITY ASSISTANCE CORPORATION, 3120 Freeboard Drive, Suite 201, West Sacramento, CA 95691, Grant Type: Comprehensive, Amount Awarded: $615,678.
MONEY MANAGEMENT INTERNATIONAL INC., 9009 West Loop South, Suite 700, Houston, TX 77096–1719, Grant Type: Comprehensive, Amount Awarded: $908,252.	STRUCTURED EMPLOYMENT ECONOMIC DEVELOPMENT CO., 915 Broadway/17th fl/New York, NY 10010, Grant Type: Comprehensive, Amount Awarded: $1,726,208.
NATIONAL ASSOCIATION OF REAL ESTATE BROKERS—INVESTMENT DIVISION, INC., 1301 85th Avenue, Oakland, CA 94621–1605, Grant Type: Comprehensive, Amount Awarded: $1,073,132.	THE HOUSING PARTNERSHIP NETWORK, 160 State Street, 5th Floor, Boston, MA 02109, Grant Type: Comprehensive, Amount Awarded: $2,169,221.
WEST TENNESSEE LEGAL SERVICES, INC., 210 West Main Street, P.O. Box 2066, Jackson, TN 38302–2066, Grant Type: Comprehensive, Amount Awarded: $1,073,133.	

LOCAL HOUSING COUNSELING AGENCIES (387)
Atlanta (LHCA—COMP)

ACCESS LIVING OF METROPOLITAN CHICAGO, 614 Roosevelt Road, Chicago, IL 60607, Grant Type: Comprehensive, Amount Awarded: $24,807.	AREA COMMITTEE TO IMPROVE OPPORTUNITIES NOW, INC., 594 Oconee Street, Athens, GA 30603, Grant Type: Comprehensive, Amount Awarded: $32,017.
AFFORDABLE HOUSING COALITION OF ASHEVILLE AND BUNCOMBE COUNTIES, INC., 34 Wall Street, Suite 607, Asheville, NC 28801, Grant Type: Comprehensive, Amount Awarded: $27,210.	B&D TRAINING SERVICES, 2952 Priscilla, Indianapolis, IN 46218, Grant Type: Comprehensive, Amount Awarded: $21,202.
AFFORDABLE HOUSING CORPORATION, 812 South Washington Street, Marion, IN 46953, Grant Type: Comprehensive, Amount Awarded: $48,691.	BETHEL NEW LIFE, INC., 4950 W. Thomas Street, Chicago, IL 60651, Grant Type: Comprehensive, Amount Awarded: $22,403.
AFFORDABLE HOUSING ENTERPRISES, INC., 333 South 9th Street, Griffin, GA 30224, Grant Type: Comprehensive, Amount Awarded: $20,000.	BRIGHTON CENTER, INCORPORATED, 741 Central Ave., Newport, KY 41071, Grant Type: Comprehensive, Amount Awarded: $34,442.
ALABAMA COUNCIL ON HUMAN RELATIONS, INC., 319 W. Glenn Ave., P.O. Box 409, Auburn, AL 36831–0409, Grant Type: Comprehensive, Amount Awarded: $23,400.	CAMPBELLSVILLE HOUSING AND REDEVELOPMENT AUTHORITY, 400 Ingram Ave., P.O. Box 597, Campbellsville, KY 42718–1627, Grant Type: Comprehensive, Amount Awarded: $22,689.
APPALACHIAN HOUSING AND REDEVELOPMENT CORPORATION, 800 Avenue B, Rome, GA 30162, Grant Type: Comprehensive, Amount Awarded: $26,008.	CATHOLIC CHARITIES OF THE ARCHDIOCESE OF CHICAGO, 671 S. Lewis Avenue, Waukegan, IL 60085, Grant Type: Comprehensive, Amount Awarded: $21,202.
CCCS OF NORTH WEST IN, INC., 3637 Grant Street, Gary, IN 46408–1423, Grant Type: Comprehensive, Amount Awarded: $29,613.	CITY OF BLOOMINGTON, 401 N. Morton St., P.O. Box 100, Bloomington 47402, Bloomington, IN 47404–3729, Grant Type: Comprehensive, Amount Awarded: $35,384.
CCCS OF WEST FL—MAIN OFFICE, 14 Palafox Place, P.O. Box 950, Pensacola, FL 32502, Grant Type: Comprehensive, Amount Awarded: $44,161.	CLINCH-POWELL RESOURCE CONSERVATION AND DEVELOPMENT AREA, 7995 Rutledge Pike, P.O. Box 379, Rutledge, TN 37861, Grant Type: Comprehensive, Amount Awarded: $30,815.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

CDBG OPERATIONS CORPORATION, 510 North 25th Street, East St. Louis, IL 62205, Grant Type: Comprehensive, Amount Awarded: $38,053.	COBB HOUSING, INCORPORATED, 268 Lawrence St, Suite 100, Marietta, GA 30060, Grant Type: Comprehensive, Amount Awarded: $20,000.
CENTER FOR AFFORDABLE HOMEOWNERSHIP DBA TAMPA HOUSING AUTHORITY, 1803 North Howard Avenue, Tampa, FL 33607, Grant Type: Comprehensive, Amount Awarded: $23,605.	COLUMBUS HOUSING INITIATIVE, INC., 18 11th Street, Columbus, GA 31901, Grant Type: Comprehensive, Amount Awarded: $24,807.
CENTRAL FLORIDA COMMUNITY DEVELOPMENT CORPORATION, 847 Orange Avenue, P.O. Box 15065, Daytona Beach, FL 32114, Grant Type: Comprehensive, Amount Awarded: $26,008.	COMMUNITY ACTION AGENCY OF NORTHWEST ALABAMA, INC., 745 Thompson St., Florence, AL 35630, Grant Type: Comprehensive, Amount Awarded: $30,000.
CENTRAL ILLINOIS DEBT MANAGEMENT & CREDIT EDUCATION, INC. AKA CCCS OF CENTRAL IL, 222 E. North Street, Decatur, IL 62523, Grant Type: Comprehensive, Amount Awarded: $35,646.	COMMUNITY ACTION PARTNERSHIP OF N. AL, INC., 1909 Central Parkway SW, Decatur, AL 35601, Grant Type: Comprehensive, Amount Awarded: $47,181.
CHARLESTON AREA CDC, 1071A King Street, Charleston, SC 29413, Charleston, SC 29403, Grant Type: Comprehensive, Amount Awarded: $22,403.	COMMUNITY ACTION PROGRAM OF EVANSVILLE & VANDERBURGH COUNTY, INC., 27 Pasco Avenue, Evansville, IN 47713, Grant Type: Comprehensive, Amount Awarded: $30,000.
CHOANOKE AREA DEVELOPMENT ASSOCIATION, 120 Sessoms Drive, Rich Square, NC 27869, Grant Type: Comprehensive, Amount Awarded: $22,403.	CONSUMER CREDIT COUNSELING SERVICE OF FORSYTH COUNTY, INC., 8064 North Point Boulevard, Suite 204, 206 North Spruce St., Suite 2–B, Winston Salem, NC 27106, Grant Type: Comprehensive, Amount Awarded: $50,202.
COMMUNITY AND ECONOMIC DEVELOPMENT ASSOCIATION OF COOK COUNTY INC., 208 S. La Salle St., Ste 1900, Chicago, IL 60604–1104, Grant Type: Comprehensive, Amount Awarded: $29,613.	COOPERATIVE RESOURCE CENTER, INC., 191 Edgewood Avenue, SE., Atlanta, GA 30303, Grant Type: Comprehensive, Amount Awarded: $30,815.
COMMUNITY ENTERPRISE INVESTMENTS, INCORPORATED, 302 North Barcelona St., Pensacola, FL 32502, Grant Type: Comprehensive, Amount Awarded: $25,000.	CORPORACION MILAGROS DEL AMOR, P. O. Box 6445, 78 Gautier Benitez Street, Caguas, PR 00726–6445, Grant Type: Comprehensive, Amount Awarded: $21,202.
COMMUNITY HOUSING INITIATIVE, INC., 3033 College Wood Drive, P.O. Box 410522, FL 32941–0522, Melbourne, FL 32934, Grant Type: Comprehensive, Amount Awarded: $27,728.	CREDIT CARD MANAGEMENT SERVICES, INC., 4611 Okeechobee Boulevard, Suite 114, West Palm Beach, FL 33417, Grant Type: Comprehensive, Amount Awarded: $20,000.
COMMUNITY INVESTMENT CORPORATION OF DECATUR, INC 2121 S. Imboden Court, Decatur, IL 62521, Grant Type: Comprehensive, Amount Awarded: $33,750.	CUMBERLAND COMMUNITY ACTION PROGRAM, INC., 316 Green Street, P.O. Box 2009, Zip 29302 (for P.O. box only), Fayetteville, NC 28302, Grant Type: Comprehensive, Amount Awarded: $29,613.
COMMUNITY REINVESTMENT ALLIANCE OF LEXINGTON, 498 Georgetown Street, Suite 100, Lexington, KY 40508, Grant Type: Comprehensive, Amount Awarded: $26,008.	DEERFIELD BEACH HOUSING AUTHORITY, 533 S. Dixie Hwy, Deerfield Beach, FL 33441, Grant Type: Comprehensive, Amount Awarded: $21,202.
COMMUNITY SERVICE PROGRAMS OF WEST ALABAMA, INC., 601 17th St., Tuscaloosa, AL 35401–4807, Grant Type: Comprehensive, Amount Awarded: $29,613.	DEKALB/METRO HOUSING COUNSELING CENTER, 4151 Memorial Drive, Suite 207B, Decatur, GA 30032, Grant Type: Comprehensive, Amount Awarded: $21,202.
CONSUMER CREDIT COUNSELING SERVICE OF WNC, INC., 50 S. French Broad Ave., Ste 227, Asheville, NC 28801–3217, Grant Type: Comprehensive, Amount Awarded: $38,053.	FAMILY SERVICES, INC., 4925 Lacross St., Ste. 215, North Charleston, SC 29406, Grant Type: Comprehensive, Amount Awarded: $38,053.
DU PAGE HOMEOWNERSHIP CENTER, INC., 1333 N. Main St., Wheaton, IL 60187–3579, Grant Type: Comprehensive, Amount Awarded: $65,000.	FINANCIAL COUNSELORS OF AMERICA, 3294 Poplar Ave., Suite 304, Memphis, TN 38111, Grant Type: Comprehensive, Amount Awarded: $24,807.
DURHAM REGIONAL FINANCIAL CENTER DBA DURHAM REGIONAL COMMUNITY DEVELOPMENT GROUP, 315 East Chapel Hill Street, Suite 301, Durham, NC 27701, Grant Type: Comprehensive, Amount Awarded: $30,000.	GAP COMMUNITY DEVELOPMENT RESOURCES, INC., 129 West Fowlkes Street, Suite 137, Franklin, TN 37064, Grant Type: Comprehensive, Amount Awarded: $45,000.
EAST ATHENS DEVELOPMENT CORPORATION, 410 McKinley Drive, Suite 101, Athens, GA 30601, Grant Type: Comprehensive, Amount Awarded: $32,016.	GOLDEN RULE HOUSING AND COMMUNITY DEVELOPMENT, 417 E. 2nd Street, Sanford, FL 32771, Grant Type: Comprehensive, Amount Awarded: $26,008.
ECONOMIC OPPORTUNITY FOR SAVANNAH CHATHAM COUNTY AREA, INC., 618 W. Anderson St., P.O. Box 1353, Savannah, GA 31415, Grant Type: Comprehensive, Amount Awarded: $32,016.	GOODWILL INDUSTRIES MANASOTA, INC., 8490 Lockwood Ridge Road, Sarasota, FL 34243, Grant Type: Comprehensive, Amount Awarded: $35,646.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

ELIZABETH CITY STATE UNIVERSITY, 1704 Weeksville Rd., Elizabeth City, NC 27909, Grant Type: Comprehensive, Amount Awarded: $45,671.	GREATER SOUTHWEST DEVELOPMENT CORPORATION, 2601 West 63rd Street, Chicago, IL 60629, Grant Type: Comprehensive, Amount Awarded: $33,239.
ELKHART HOUSING PARTNERSHIP, INC., 500 S. Main Street, P.O. Box 1772, Elkhart, IN 46516, Grant Type: Comprehensive, Amount Awarded: $30,000.	HOPE OF EVANSVILLE, INC., 608 Cherry St., Evansville, IN 47713–1808, Grant Type: Comprehensive, Amount Awarded: $24,807.
FAMILY COUNSELING CENTER OF BREVARD, INC., 220 Coral Sands Dr., Rockledge, FL 32955–2702, Grant Type: Comprehensive, Amount Awarded: $35,285.	HOUSING AND ECONOMIC LEADERSHIP PARTNERS, INC., 485 Huntington Road, Suite 200, Athens, GA 30606, Grant Type: Comprehensive, Amount Awarded: $33,239.
GREENSBORO HOUSING COALITION, 122 N. Elm Street, Suite 608, Greensboro, NC 27401, Grant Type: Comprehensive, Amount Awarded: $38,053.	HOUSING ASSISTANCE AND DEVELOPMENT SERVICES, INC., 1135 Adams Street, P.O. Box 9637, Bowling Green, KY 42102–9637, Grant Type: Comprehensive, Amount Awarded: $22,403.
GREENVILLE COUNTY HUMAN RELATIONS COMMISSION, 301 University Ridge, Suite 1600, Greenville, SC 29601–3660, Grant Type: Comprehensive, Amount Awarded: $134,702.	HOUSING AUTHORITY OF THE CITY OF FORT WAYNE, INDIANA, 2013 S. Anthony Blvd., P. O. Box 13489, Fort Wayne, IN 46869, Grant Type: Comprehensive, Amount Awarded: $23,605.
HALE EMPOWERMENT AND REVITALIZATION ORGANIZATION, 1120 Main Street, P.O. Box 318, Greensboro, AL 36744, Grant Type: Comprehensive, Amount Awarded: $23,605.	HOUSING AUTHORITY OF THE CITY OF ANDERSON, 528 West 11th St., Anderson, IN 46016–1228, Grant Type: Comprehensive, Amount Awarded: $25,000.
HCP OF ILLINOIS, INC., 28 E. Jackson Blvd., #1109, Chicago, IL 60604, Grant Type: Comprehensive, Amount Awarded: $36,849.	HOUSING AUTHORITY OF THE CITY OF HAMMOND, 1402 173rd Street, Hammond, IN 46324–2831, Grant Type: Comprehensive, Amount Awarded: $21,202.
HIGHLAND FAMILY RESOURCE CENTER, INC., 1305 N. Weldon Street, P. O. Box 806, Gastonia, NC 28053, Grant Type: Comprehensive, Amount Awarded: $36,849.	HOUSING AUTHORITY OF THE CITY OF HIGH POINT, 500E Russell Avenue, P.O. Box 1779, High Point, NC 27260, Grant Type: Comprehensive, Amount Awarded: $34,442.
HOME DEVELOPMENT RESOURCES, INC. (FORMERLY GAINESVILLE-HALL COUNTY), 2380 Murphy Blvd., P.O. Box 642, Gainesville, GA 30504, Grant Type: Comprehensive, Amount Awarded: $35,646.	INDIANAPOLIS URBAN LEAGUE, 777 Indiana Ave., Indianapolis, IN 46202–3135, Grant Type: Comprehensive, Amount Awarded: $20,000.
HOMES IN PARTNERSHIP, INCORPORATED, 235 E. 5th St., P.O. Box 761, Apopka, FL 32703–5315, Grant Type: Comprehensive, Amount Awarded: $27,210.	JACKSONVILLE AREA LEGAL AID, INC., 126 W. Adams Street, Jacksonville, FL 32202–3849, Grant Type: Comprehensive, Amount Awarded: $47,181.
HOOSIER UPLANDS ECONOMIC DEVELOPMENT CORPORATION, 521 W. Main St., P.O. Box 9, Mitchell, IN 47446–1410, Grant Type: Comprehensive, Amount Awarded: $20,000.	JC VISION AND ASSOCIATES, INC., 135 G East Martin Luther King Dr., P.O Box 1972, Hinesville, GA 31313, Grant Type: Comprehensive, Amount Awarded: $45,671.
HOUSING AUTHORITY OF THE COUNTY LAKE, 33928 North Route 45, Grayslake, IL 60030, Grant Type: Comprehensive, Amount Awarded: $25,853.	JEFFERSON COUNTY HOUSING AUTHORITY, 3700 Industrial Parkway, Birmingham, AL 35217, Grant Type: Comprehensive, Amount Awarded: $21,202.
HOUSING AUTHORITY, CITY OF ELKHART, 1396 Benham Ave., Elkhart, IN 46516–3341, Grant Type: Comprehensive, Amount Awarded: $26,202.	JOHNSTON-LEE-HARNETT COMMUNITY ACTION, INC., 1102 Massey Street, P.O. Drawer 711, Smithfield, NC 27577–0711, Grant Type: Comprehensive, Amount Awarded: $20,000.
HOUSING DEVELOPMENT CORPORATION OF ST. JOSEPH COUNTY, 224 W. Jefferson Blvd., Suite 100, South Bend, IN 46601–1830, Grant Type: Comprehensive, Amount Awarded: $28,412.	LATIN AMERICAN ASSOCIATION, 2750 Buford Highway, Atlanta, GA 30324, Grant Type: Comprehensive, Amount Awarded: $36,849.
HOUSING OPPORTUNITIES, INC., 2801 Evans Avenue, Valparaiso, IN 46383, Grant Type: Comprehensive, Amount Awarded: $25,000.	HOUSING OPPORTUNITY DEVELOPMENT, 1000 Skokie Boulevard, Suite 500, Wilmette, IL 60091, Grant Type: Comprehensive, Amount Awarded: $30,000.
HOUSING PARTNERSHIP, INC., 2001 W. Blue Heron Blvd., Riviera Beach, FL 33404, Grant Type: Comprehensive, Amount Awarded: $35,646.	MIAMI BEACH COMMUNITY DEVELOPMENT CORP., 945 Pennsylvania Avenue 2nd Floor, Miami Beach, FL 33139, Grant Type: Comprehensive, Amount Awarded: $32,016.
LATIN UNITED COMMUNITY HOUSING ASSOCIATION, 3541 West North Avenue, Chicago, IL 60647, Grant Type: Comprehensive, Amount Awarded: $32,016.	MID-FLORIDA HOUSING PARTNERSHIP, INC., 1834 Mason Avenue, Daytona Beach, FL 32117, Grant Type: Comprehensive, Amount Awarded: $24,807.
LEGAL ASSISTANCE FOUNDATION OF METROPOLITAN CHICAGO, 111 West Jackson Blvd., Suite 300, Chicago, IL 60604, Grant Type: Comprehensive, Amount Awarded: $36,849.	MIDDLE GEORGIA COMMUNITY ACTION AGENCY, INC., 121 Prince Street, P.O. Box 2286, Warner Robins, GA 31099, Grant Type: Comprehensive, Amount Awarded: $33,238.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

LIGHTHOUSE CREDIT FOUNDATION, INC., 8550 Ulmerton Road, Suite 125, Largo, FL 33771, Grant Type: Comprehensive, Amount Awarded: $23,605.	MOBILE HOUSING BOARD, 151 S. Claiborne Street, Mobile, AL 36602, Grant Type: Comprehensive, Amount Awarded: $44,161.
LINCOLN HILLS DEVELOPMENT CORPORATION, 302 Main St., P.O. Box 336, Tell City, IN 47586–0336, Grant Type: Comprehensive, Amount Awarded: $21,123.	MOMENTIVE CONSUMER CREDIT COUNSELING SERVICE, 615 N. Alabama Street, Suite 134, Indianapolis, IN 46204–1477, Grant Type: Comprehensive, Amount Awarded: $38,053.
MANATEE COALITION FOR AFFORDABLE HOUSING, INC., 319 6th Avenue West, Bradenton, FL 34205, Grant Type: Comprehensive, Amount Awarded: $22,403.	MONROE-UNION COUNTY COMMUNITY DEVELOPMENT CORPORATION, 349 East Franklin Street, P.O. Box 887, Monroe, NC 28112, Grant Type: Comprehensive, Amount Awarded: $35,646.
MANATEE OPPORTUNITY COUNCIL, INCORPORATED, 302 Manatee Avenue E, Suite 150, Bradenton, FL 34208, Grant Type: Comprehensive, Amount Awarded: $28,412.	MONTGOMERY COMMUNITY ACTION COMMITTEE, 1066 Adams Avenue, Montgomery, AL 36104, Grant Type: Comprehensive, Amount Awarded: $27,055.
METEC, 305 S. Madison Park Terr, Zip-616105, P.O. Box 10034, Peoria, IL 61612, Grant Type: Comprehensive, Amount Awarded: $29,613.	PONCE NEIGHBORHOOD HOUSING SERVICES, INC., 57 Mendez Vigo Street, P.O. Box 330223, zip 00733–0223, Ponce, PR 00730–0223, Grant Type: Comprehensive, Amount Awarded: $35,646.
MUNCIE HOME OWNERSHIP AND DEVELOPMENT CENTER, 407 S. Walnut St., P.O. Box 93, Muncie, IN 47308, Grant Type: Comprehensive, Amount Awarded: $33,239.	PROSPERITY UNLIMITED, INC., 1660 Garnet Street, Kannapolis, NC 28083, Grant Type: Comprehensive, Amount Awarded: $50,202.
NORTHWESTERN REGIONAL HOUSING AUTHORITY, 869 Highway 105 Ext. Ste. 10, P.O. Box 2510, Boone, NC 28607–2510, Grant Type: Comprehensive, Amount Awarded: $32,016.	PURCHASE AREA HOUSING CORPORATION, 1002 Medical Dr., P.O. Box 588, Mayfield, KY 42066–0588, Grant Type: Comprehensive, Amount Awarded: $21,202.
OCALA HOUSING AUTHORITY, 1629 Northwest 4th Street, Ocala, FL 34475, Grant Type: Comprehensive, Amount Awarded: $32,016.	REACH, INC., 733 Red Mile Rd., Lexington, KY 40504, Grant Type: Comprehensive, Amount Awarded: $32,016.
OLIVE HILL COMMUNITY ECONOMIC DEVELOPMENT CORPORATION, 301 East Meeting St., Second Floor, P.O. Box 4008, Morganton, NC 28680–4008, Grant Type: Comprehensive, Amount Awarded: $28,412.	REDEMPTION MINISTRIES, INC., 109 Industrial Boulevard, Thomasville, GA 31799, Grant Type: Comprehensive, Amount Awarded: $24,000.
ONE STOP CAREER CENTER OF PUERTO RICO, Cond. Plaza Universidad 2000, Calle Anasco 839, Local 5, San Juan, PR 00928, Grant Type: Comprehensive, Amount Awarded: $24,807.	RIVER CITY COMMUNITY DEVELOPMENT CORPORATION, 501 East Main St., Elizabeth City, NC 27909, Grant Type: Comprehensive, Amount Awarded: $26,008.
ORGANIZED COMMUNITY ACTION PROGRAM, INC., 507 North Three Notch Street, P.O. Box 908, Troy, AL 36081–0908, Grant Type: Comprehensive, Amount Awarded: $26,008.	THE CENTER FOR AFFORDABLE HOUSING, INC., 2524 S. Park Drive, Sanford, FL 32773, Grant Type: Comprehensive, Amount Awarded: $35,646.
PARTNERSHIP FOR FAMILIES, CHILDREN AND ADULTS/CCCS OF CHATTANOOGA, 2221A Olan Mills Drive, Chattanooga, TN 37421, Grant Type: Comprehensive, Amount Awarded: $20,000.	THE IMPACT GROUP (FORMERLY: GWINNETT HOUSING RESOURCE PARTNERSHIP, INC.), 2825 Breckinridge Blvd., Suite 160, Duluth, GA 30096, Grant Type: Comprehensive, Amount Awarded: $20,000.
ROGERS PARK COMMUNITY DEVELOPMENT CORPORATION, 1530 West Morse Avenue, Chicago, IL 60626, Grant Type: Comprehensive, Amount Awarded: $32,016.	THE UNIVERSITY OF SOUTHERN MISS. (INSTITUTE FOR DISABILITY STUDIES), 118 College Drive, #5163, Hattiesburg, MS 39406–0001, Grant Type: Comprehensive, Amount Awarded: $20,000.
SACRED HEART SOUTHERN MISSIONS HOUSING CORPORATION, 9260 McLemore Drive, P.O. Box 365, Walls, MS 38680–0365, Grant Type: Comprehensive, Amount Awarded: $21,202.	TALLAHASSEE LENDERS CONSORTIUM, INC., 833 East Park Avenue, Tallahassee, FL 32301, Grant Type: Comprehensive, Amount Awarded: $38,053.
SANDHILLS COMMUNITY ACTION PROGRAM, INC., 103 Saunders St., P.O. Box 937, Carthage, NC 28327–0937, Grant Type: Comprehensive, Amount Awarded: $20,000.	TAMPA BAY COMMUNITY DEVELOPMENT CORPORATION, 2139 NE. Coachman Road, *billsanchez@tampabaycdc.org,* Clearwater, FL 33765, Grant Type: Comprehensive, Amount Awarded: $36,849.
SOUTH SUBURBAN HOUSING CENTER, 18220 Harwood Avenue, Suite 1, Homewood, IL 60430, Grant Type: Comprehensive, Amount Awarded: $35,646.	TRIDENT UNITED WAY, 6296 Rivers Avenue, P.O. Box 63305, North Charleston, SC 29419, Grant Type: Comprehensive, Amount Awarded: $35,646.
SOUTHERN INDIANA HOMEOWNERSHIP INC., 4367 N. Purdue Rd., Vincennes, IN 47591, Grant Type: Comprehensive, Amount Awarded: $32,016.	TSP-HOPE, INC., 1507 East Cook Street, P.O. Box 6091, Springfield, IL 62708–6091, Grant Type: Comprehensive, Amount Awarded: $22,403.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

STATESVILLE HOUSING AUTHORITY, 110 West Allison Street, Statesville, NC 28677, Grant Type: Comprehensive, Amount Awarded: $32,016.	TWIN RIVERS OPPORTUNITIES, INC., 318 Craven St., P.O. Box 1482, New Bern, NC 28563, Grant Type: Comprehensive, Amount Awarded: $29,613.
UNIVERSITY OF GEORGIA'S FAMILY AND CONSUMER SCIENCES COOPERATIVE EXTENSION SERVICE (MAIN OFFICE), 617 Boyd Graduate Studies Research Center, Athens, GA 30602–7411, Grant Type: Comprehensive, Amount Awarded: $24,807.	VOLLINTINE EVERGREEN COMMUNITY ASSOCIATION CDC, 1680 Jackson Ave., Memphis, TN 38107–5044, Grant Type: Comprehensive, Amount Awarded: $21,202.
WESTERN PIEDMONT COUNCIL OF GOVERNMENTS, 736 4th Street South-West, P.O. Box 9026, Hickory, NC 28602, Grant Type: Comprehensive, Amount Awarded: $27,210.	WILL COUNTY CENTER FOR COMMUNITY CONCERNS, 304 N. Scott Street, Joliet, IL 60432, Grant Type: Comprehensive, Amount Awarded: $30,000.
WILMINGTON HOUSING FINANCE AND DEVELOPMENT, INC., 3508 Frog Pond Place, P.O. Box 547, Wilmington, NC 28403, Grant Type: Comprehensive, Amount Awarded: $45,671.	WOODBINE COMMUNITY ORGANIZATION, 222 Oriel Ave., Nashville, TN 37210, Grant Type: Comprehensive, Amount Awarded: $32,016.
DENVER (LHCA–COMP)	
ADAMS COUNTY HOUSING AUTHORITY, 7190 Colorado Blvd., 6th Fl, Commerce City, CO 80022–1812, Grant Type: Comprehensive, Amount Awarded: $75,364.	BROTHERS REDEVELOPMENT, INC., 2250 Eaton St., Garden Level, Denver, CO 80214–1210, Grant Type: Comprehensive, Amount Awarded: $57,037.
ANOKA COUNTY COMMUNITY ACTION PROGRAM, INC., 1201 89th Ave., NE., Ste 345, Blaine, MN 55434–3373, Grant Type: Comprehensive, Amount Awarded: $43,644.	CARVER COUNTY CDA, 705 Walnut Street, Chaska, MN 55318, Grant Type: Comprehensive, Amount Awarded: $35,763.
AUSTIN TENANTS' COUNCIL, 1619 E. Cesar Chavez St., Austin, TX 78702–4455, Grant Type: Comprehensive, Amount Awarded: $44,954.	CITY OF AURORA COMMUNITY DEVELOPMENT DIVISION, 9898 E. Colfax Ave., Aurora, CO 80010, Grant Type: Comprehensive, Amount Awarded: $38,390.
AVENIDA GUADALUPE ASSOCIATION, 1327 Guadalupe St., San Antonio, TX 78207, Grant Type: Comprehensive, Amount Awarded: $46,271.	CITY OF FORT WORTH HOUSING DEPARTMENT, 1000 Throckmorton St., Fort Worth, TX 76102, Grant Type: Comprehensive, Amount Awarded: $57,037.
AVENUE COMMUNITY DEVELOPMENT CORPORATION, 2505 Washington Ave., Suite 400, Houston, TX 77007, Grant Type: Comprehensive, Amount Awarded: $43,000.	CITY OF SAN ANTONIO/COMMUNITY ACTION DIVISION, 700 So. Zarzamora, Suite 207, P.O. Box 839966, San Antonio, TX 78205, Grant Type: Comprehensive, Amount Awarded: $59,682.
BOULDER COUNTY HOUSING AUTHORITY, 3482 North Broadway, Sundquist Bldg., Boulder, CO 80304, Grant Type: Comprehensive, Amount Awarded: $54,391.	COLORADO HOUSING ASSISTANCE CORPORATION, 670 Santa Fe Drive, Denver, CO 80204, Grant Type: Comprehensive, Amount Awarded: $38,390.
COLORADO RURAL HOUSING DEVELOPMENT CORP., 3621 West 73rd Avenue, Suite C, Westminster, CO 80030, Grant Type: Comprehensive, Amount Awarded: $25,254.	COMMUNITY ACTION DULUTH, 19 N. 21st Avenue West, Duluth, MN 55806, Grant Type: Comprehensive, Amount Awarded: $41,017.
COMMUNITY ACTION PARTNERSHIP OF SUBURBAN HENNEPIN, 33 10th Ave. South, Suite 150, Hopkins, MN 55343–1303, Grant Type: Comprehensive, Amount Awarded: $22,627.	COMMUNITY ACTION SERVICES, 815 South Freedom Blvd., Suite 100, Provo, UT 84601, Grant Type: Comprehensive, Amount Awarded: $72,288.
COMMUNITY ACTION PROJECT OF TULSA, 4606 South Garnett Road, Suite 100, Tulsa, OK 74146, Grant Type: Comprehensive, Amount Awarded: $35,763.	COMMUNITY ACTION, INCORPORATED OF ROCK AND WALWORTH COUNTIES, 2300 Kellogg Ave., Janesville, WI 53546–5921, Grant Type: Comprehensive, Amount Awarded: $25,000.
COMMUNITY DEVELOPMENT CORPORATION OF BROWNSVILLE, 901 East Levee Street, Brownsville, TX 78520–5804, Grant Type: Comprehensive, Amount Awarded: $69,213.	COMMUNITY DEVELOPMENT SUPPORT ASSOCIATION, 2615 E. Randolph, Enid, OK 73701, Grant Type: Comprehensive, Amount Awarded: $30,000.
COMMUNITY SERVICES LEAGUE, 300 W. Maple Ave., Independence, MO 64050–2818, Grant Type: Comprehensive, Amount Awarded: $30,509.	CONSUMER CREDIT COUNSELING SERVICE OF CENTRAL OKLAHOMA, 3230 N. Rockwell Avenue, Bethany, OK 73008, Grant Type: Comprehensive, Amount Awarded: $85,000.
CONSUMER CREDIT COUNSELING SERVICE, INC., 1201 W. Walnut St., P.O. Box 843, Salina, KS 67402–0843, Grant Type: Comprehensive, Amount Awarded: $72,288.	CRAWFORD SEBASTIAN COMMUNITY DEVELOPMENT COUNCIL, 4831 Armour St., P.O. Box 4069, Fort Smith, AR 72914, Grant Type: Comprehensive, Amount Awarded: $33,136.
CREDIT ADVISORS FOUNDATION, 1818 S. 72nd Street, Omaha, NE 68124, Grant Type: Comprehensive, Amount Awarded: $75,364.	DAKOTA COUNTY COMMUNITY DEVELOPMENT AGENCY, 1228 Town Centre Drive, Eagan, MN 55123, Grant Type: Comprehensive, Amount Awarded: $49,100.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

DISTRICT 7 HUMAN RESOURCES DEVELOPMENT COUNCIL, 7 N. 31 St., P.O. Box 2016, Billings, MT 59103, Grant Type: Comprehensive, Amount Awarded: $35,763.	EL PASO COMMUNITY ACTION PROGRAM, PROJECT BRAVO, INC., 4838 Montana Ave., El Paso, TX 79903, Grant Type: Comprehensive, Amount Awarded: $33,136.
FAMILY HOUSING ADVISORY SERVICES, INC., 2401 Lake Street, Omaha, NE 68111, Grant Type: Comprehensive, Amount Awarded: $51,746.	FAMILY MANAGEMENT CREDIT COUNSELORS, INC., 1409 W. 4th Street, Waterloo, IA 50702–2907, Grant Type: Comprehensive, Amount Awarded: $46,000.
GULF COAST COMMUNITY SERVICES ASSOCIATION, 5000 Gulf Freeway, Bldg #1, Houston, TX 77023, Grant Type: Comprehensive, Amount Awarded: $27,881.	HIGH PLAINS COMMUNITY DEVELOPMENT, CORP., 130 E. 2nd Street, Chadron, NE 69337, Grant Type: Comprehensive, Amount Awarded: $68,445.
HOME OPPORTUNITIES MADE EASY, INC. (HOME, INC.), 1111 Ninth Street, Suite 210, Des Moines, IA 50314, Grant Type: Comprehensive, Amount Awarded: $47,914.	HOUSING AND CREDIT COUNSELING, INCORPORATED, 1195 SW. Buchanan St., Ste 101, Topeka, KS 66604–1183, Grant Type: Comprehensive, Amount Awarded: $75,364.
HOUSING AUTHORITY OF THE CITY OF NORMAN, 700 North Berry Road, Norman, OK 73069, Grant Type: Comprehensive, Amount Awarded: $55,000.	HOUSING AUTHORITY OF THE CITY OF SHAWNEE, 601 West 7th Street, P.O. Box 3427, Shawnee, OK 74802–3427, Grant Type: Comprehensive, Amount Awarded: $46,271.
HOUSING OPTIONS PROVIDED FOR THE ELDERLY, 4265 Shaw Blvd, St. Louis, MO 63110–3526, Grant Type: Comprehensive, Amount Awarded: $140,000.	HOUSING PARTNERS OF TULSA, INCORPORATED, 415 E. Independence, P.O. Box 6369, Tulsa, OK 74106, Grant Type: Comprehensive, Amount Awarded: $33,136.
HOUSING SOLUTIONS FOR THE SOUTHWEST, 295 Girard St., Durango, CO 81303, Grant Type: Comprehensive, Amount Awarded: $41,017.	HUMAN RESOURCE DEVELOPMENT COUNCIL OF DISTRICT IX, INC., 32 S. Tracy Avenue, Bozeman, MT 59715, Grant Type: Comprehensive, Amount Awarded: $60,000.
INTERFAITH OF NATRONA COUNTY, INCORPORATED, 1514 East 12th Street, #303, Casper, WY 82601, Grant Type: Comprehensive, Amount Awarded: $40,000.	IOWA CITIZENS FOR COMMUNITY IMPROVEMENT, 2005 Forest Avenue, Des Moines, IA 50311, Grant Type: Comprehensive, Amount Awarded: $40,000.
JUSTINE PETERSEN HOUSING AND REINVESTMENT COR, 5031 Northrup Ave., St. Louis, MO 63110, Grant Type: Comprehensive, Amount Awarded: $146,410.	KI BOIS COMMUNITY ACTION FOUNDATION, INCORPOR, 301 E. Main, P.O. Box 727, Stigler, OK 74462, Grant Type: Comprehensive, Amount Awarded: $59,830.
LAFAYETTE CONSOLIDATED GOVERNMENT NEIGHBORHOOD COUNSELING SERVICES, 111 Shirley Picard Dr., Lafayette, LA 70501, Grant Type: Comprehensive, Amount Awarded: $27,000.	NORTHERN ARAPAHO TRIBAL HOUSING, 501 Ethete Rd., P.O. Box 8236, Ethete, WY 82520, Grant Type: Comprehensive, Amount Awarded: $35,495.
LAKE COUNTY COMMUNITY HOUSING ORGANIZATION AN, 407 Main Street, SW., P.O. Box 146, Ronan, MT 59864, Grant Type: Comprehensive, Amount Awarded: $24,460.	OGLALA SIOUX TRIBE PARTNERSHIP FOR HOUSING, INC., Old Ambulance Building, P.O. Box 3001, Pine Ridge, SD 57770, Grant Type: Comprehensive, Amount Awarded: $54,391.
LEGAL AID OF WESTERN MISSOURI, 1125 Grand Boulevard, Suite 2000, Kansas City, MO 64106, Grant Type: Comprehensive, Amount Awarded: $146,410.	REVERSE MORTGAGE COUNSELORS, INCORPORATED, 400 Selby Avenue, Suite G, St. Paul MN, St. Paul, MN 55102, Grant Type: Comprehensive, Amount Awarded: $22,627.
LEGAL SERVICES OF EASTERN MISSOURI, INCORPORA, 4232 Forest Park Ave., St. Louis, MO 63108–2811, Grant Type: Comprehensive, Amount Awarded: $146,410.	SAINT MARTIN, IBERIA, LAFAYETTE COMMUNITY ACT, 501 Saint John St., P.O. Box 3343, Lafayette, LA 70501–5709, Grant Type: Comprehensive, Amount Awarded: $30,509.
LINCOLN ACTION PROGRAM, INC., 210 O Street, Lincoln, NE 68508, Grant Type: Comprehensive, Amount Awarded: $41,017.	SAINT MARY COMMUNITY ACTION AGENCY, INC., 1407 Barrow St., P.O. Box 271, Franklin, LA 70538–3514, Grant Type: Comprehensive, Amount Awarded: $20,000.
NEIGHBOR TO NEIGHBOR, 1550 Blue Spruce Drive, Fort Collins, CO 80524, Grant Type: Comprehensive, Amount Awarded: $45,000.	SAINT PAUL DEPARTMENT OF PLANNING AND ECONOMIC DEV., 25 West 4th Street, Suite 1200, St. Paul, MN 55102–1634, Grant Type: Comprehensive, Amount Awarded: $51,746.
SAINT PAUL URBAN LEAGUE, 401 Selby Ave., St. Paul, MN 55102–1724, Grant Type: Comprehensive, Amount Awarded: $22,627.	TEXAS RIOGRANDE LEGAL AID, 300 S. Texas Blvd., Weslaco, TX 78596, Grant Type: Comprehensive, Amount Awarded: $78,440.
SALT LAKE COMMUNITY ACTION PROGRAM, 764 S. 200 W., Salt Lake City, UT 84101–2710, Grant Type: Comprehensive, Amount Awarded: $35,000.	TRI-COUNTY ACTION PROGRAMS, INCORPORATED, 700 W. Saint Germain St., Saint Cloud, MN 56301–3507, Grant Type: Comprehensive, Amount Awarded: $30,509.
SOUTH ARKANSAS COMMUNITY DEVELOPMENT, 406 Clay Street, Arkadelphia, AR 71923, Grant Type: Comprehensive, Amount Awarded: $38,390.	UNITED CEREBRAL PALSY OF GREATER HOUSTON, INC., 4500 Bissonnet, Suite 340, Bellaire, TX 77401, Grant Type: Comprehensive, Amount Awarded: $35,763.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

SOUTHEASTERN NORTH DAKOTA COMMUNITY ACTION AG, 3233 S. University Dr., Fargo, ND 58104–6221, Grant Type: Comprehensive, Amount Awarded: $20,000.	UNITED COMMUNITY CENTER, 1028 S. 9th Street, Milwaukee, WI 53204, Grant Type: Comprehensive, Amount Awarded: $35,763.
SOUTHERN MINNESOTA REGIONAL LEGAL SERVICES, INC., 166 E. 4th St., Suite 200, St. Paul, MN 55101, Grant Type: Comprehensive, Amount Awarded: $59,682.	UNITED NEIGHBORS, INC., 808 Harrison Street, Davenport, IA 52803, Grant Type: Comprehensive, Amount Awarded: $51,121.
STILLWATER HOUSING AUTHORITY, 807 S. Lowry, Stillwater, OK 74074, Grant Type: Comprehensive, Amount Awarded: $30,000.	UNIVERSAL HOUSING DEVELOPMENT CORPORATION, 301 E. 3rd St., P.O. Box 846, Russellville, AR 72811–5109, Grant Type: Comprehensive, Amount Awarded: $27,882.
TENANT RESOURCE CENTER, 1202 Williamson St., Suite A, Madison, WI 53703, Grant Type: Comprehensive, Amount Awarded: $41,017.	URBAN LEAGUE OF METROPOLITAN SAINT LOUIS, 3701 Grandel Sq., St. Louis, MO 63108–3627, Grant Type: Comprehensive, Amount Awarded: $78,440.
UTAH STATE UNIVERSITY—FAMILY LIFE CENTER HOUSING AND FINANCIAL COUNSELING SERVICES, 493 N. 700 E, Logan, UT 84321, Grant Type: Comprehensive, Amount Awarded: $25,254.	WACO COMMUNITY DEVELOPMENT CORPORATION, 1624 Colcord, Waco, TX 76707, Grant Type: Comprehensive, Amount Awarded: $33,296.
YOUR COMMUNITY CONNECTION, 2261 Adams Ave., Ogden, UT 84401–1510, Grant Type: Comprehensive, Amount Awarded: $22,075.	WEST CENTRAL WISCONSIN COMMUNITY ACTION AGENCY, INC., 525 Second Street, P.O. Box 308, Glenwood City, WI 54751, Grant Type: Comprehensive, Amount Awarded: $41,017.
YOUTH EDUCATION AND HEALTH IN SOULARD, 1919 South Broadway, St. Louis, MO 63104, Grant Type: Comprehensive, Amount Awarded: $24,940.	
PHILADELPHIA (LHCA–COMP)	
AFFORDABLE HOMES OF MILLVILLE ECUMENICAL, 518 North High Street, Millville, NJ 08332, Grant Type: Comprehensive, Amount Awarded: $29,110.	ANNE ARUNDEL COUNTY ECONOMIC OPPORTUNITY COMM, 251 West St., P.O. Box 1951, Annapolis, MD 21404, Grant Type: Comprehensive, Amount Awarded: $27,809.
AFFORDABLE HOUSING ALLIANCE OF NEW JERSEY (FORMERLY THE MONMOUTH HOUSING ALLIANCE), 59 Broad Street, Eatontown, NJ 07724, Grant Type: Comprehensive, Amount Awarded: $23,904.	ARUNDEL COMMUNITY DEVELOPMENT SERVICE INC., 2666 Riva Road, Suite 210, Annapolis, MD 21401, Grant Type: Comprehensive, Amount Awarded: $25,857.
AFFORDABLE HOUSING, EDUCATION AND DEVELOPMENT, INC. (AHEAD), 161 Main St., Littleton, NH 03561, Grant Type: Comprehensive, Amount Awarded: $31,713.	ASIAN AMERICANS FOR EQUALITY, 111 Division St., New York, NY 10002, Grant Type: Comprehensive, Amount Awarded: $25,857.
ALBANY COUNTY RURAL HOUSING ALLIANCE, INC., 24 Martin Road, P.O. Box 407, Voorheesville, NY 12186, Grant Type: Comprehensive, Amount Awarded: $37,967.	BELMONT SHELTER CORPORATION, 1195 Main Street, Buffalo, NY 14209–2196, Grant Type: Comprehensive, Amount Awarded: $37,150.
ALLEGANY COUNTY COMMUNITY OPPORTUNITIES AND RURAL DEVELOPMENT (ACCORD) CORP., 84 Schuyler Street, P.O. Box 573, Belmont, NY 14813–1051, Grant Type: Comprehensive, Amount Awarded: $24,555.	BERKS COMMUNITY ACTION PROGRAM BUDGET COUNSEL, 247 N. 5th St. Reading, PA 19601, Grant Type: Comprehensive, Amount Awarded: $29,761.
BERKSHIRE COUNTY REGIONAL HOUSING AUTHORITY–H, 150 North Street, Suite 28, Pittsfield, MA 01201, Grant Type: Comprehensive, Amount Awarded: $30,412.	BETTER NEIGHBORHOODS, INCORPORATED, 986 Albany St., Schenectady, NY 12307, Grant Type: Comprehensive, Amount Awarded: $31,713.
BISHOP SHEEN ECUMENICAL HOUSING FOUNDATION, 935 East Ave., Suite 300, Rochester, NY 14607–2216, Grant Type: Comprehensive, Amount Awarded: $21,301.	CENTRAL VERMONT COMMUNITY ACTION COUNCIL, INC., 195 U.S. Route 302-Berlin, Barre, VT 05641, Grant Type: Comprehensive, Amount Awarded: $30,412.
BLAIR COUNTY COMMUNITY ACTION AGENCY, 2100 Sixth Avenue, Altoona, PA 16602, Grant Type: Comprehensive, Amount Awarded: $26,507.	CHAUTAUQUA OPPORTUNITIES, INCORPORATED, 17 W. Courtney St., Dunkirk, NY 14048–2754, Grant Type: Comprehensive, Amount Awarded: $32,364.
BRIDGEPORT NEIGHBORHOOD TRUST, 177 State St., 5th Floor, Bridgeport, CT 06604–4806, Grant Type: Comprehensive, Amount Awarded: $21,952.	CHESTER COMMUNITY IMPROVEMENT PROJECT, 412 Avenue of the States, P.O. Box 541, Chester, PA 19013–0541, Grant Type: Comprehensive, Amount Awarded: $29,110.
BUCKS COUNTY HOUSING GROUP, 2324 Second Street Pike, Suite 17, Wrightstown, PA 18940, Grant Type: Comprehensive, Amount Awarded: $23,254.	CHILDREN'S & FAMILY SERVICE A/K/A FAMILY SERVICE AGENCY, 535 Marmion Avenue, Youngstown, OH 44502–2323, Grant Type: Comprehensive, Amount Awarded: $24,738.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

BURLINGTON COUNTY COMMUNITY ACTION PROGRAM, One Van Sciver Parkway, Willingboro, NJ 08046, Grant Type: Comprehensive, Amount Awarded: $24,555.	COASTAL ECONOMIC DEVELOPMENT CORPORATION, 34 Wing Farm Parkway, Bath, ME 04530, Grant Type: Comprehensive, Amount Awarded: $26,507.
CENTER CITY NEIGHBORHOOD DEVELOPMENT CORPORAT, 1022 Main St., Niagara Falls, NY 14301, Grant Type: Comprehensive, Amount Awarded: $23,254.	COASTAL ENTERPRISES, INCORPORATED, 36 Water Street, P.O. Box 268, Wiscasset, ME 04578–0268, Grant Type: Comprehensive, Amount Awarded: $25,857.
CENTER FOR FAMILY SERVICES, INCORPORATED, 213 W. Center Street, Meadville, PA 16335–3406, Grant Type: Comprehensive, Amount Awarded: $30,412.	COMMISSION ON ECONOMIC OPPORTUNITY OF LUZERNE, 165 Amber Lane, P.O. Box 1127, Wilkes Barre, PA 18703–1127, Grant Type: Comprehensive, Amount Awarded: $32,364.
COMMUNITY ACTION COMMISSION OF BELMONT COUNTY, 153½ W. Main Street, Saint Clairsville, OH 43950, Grant Type: Comprehensive, Amount Awarded: $26,507.	COMMUNITY UNIFIED TODAY, INCORPORATED, 152 Genesee Street, P.O. Box 268, Geneva, NY 14456, Grant Type: Comprehensive, Amount Awarded: $24,555.
COMMUNITY ACTION COMMITTEE OF LEHIGH VALLEY, 1337 E. 5th Street, Bethlehem, PA 18015, Grant Type: Comprehensive, Amount Awarded: $29,761.	CONSUMER CREDIT AND BUDGET COUNSELING, 299 S. Shore Road, Route 9 South, Marmora, NJ 08223–0866, Grant Type: Comprehensive, Amount Awarded: $26,507.
COMMUNITY ACTION PROGRAM FOR MADISON COUNTY, 3 East Main Street, P.O. Box 249, Morrisville, NY 13408, Grant Type: Comprehensive, Amount Awarded: $30,575.	CORTLAND HOUSING ASSISTANCE COUNCIL, INCORPOR, 159 Main St., Cortland, NY 13045, Grant Type: Comprehensive, Amount Awarded: $20,000.
COMMUNITY ACTION SOUTHWEST, 150 W. Beau Street, Suite 304, Washington, PA 15301, Grant Type: Comprehensive, Amount Awarded: $31,062.	DETROIT NON-PROFIT HOUSING CORPORATION, 8904 Woodward Ave., Suite 279, Considine Center, Detroit, MI 48202, Grant Type: Comprehensive, Amount Awarded: $28,459.
COMMUNITY ASSISTANCE NETWORK, 7701 Dunmanway, Baltimore, MD 21222–5437, Grant Type: Comprehensive, Amount Awarded: $20,000.	FAIR HOUSING RESOURCE CENTER, 54 South State Street, Suite 303, Painesville, OH 44077, Grant Type: Comprehensive, Amount Awarded: $27,809.
COMMUNITY HOUSING SOLUTIONS, 12114 Larchmere Blvd., Cleveland, OH 44120, Grant Type: Comprehensive, Amount Awarded: $27,809.	FAITH FELLOWSHIP COMMUNITY DEVELOPMENT CORPORATION, 2707 Main Street, Sayreville, NJ 08872, Grant Type: Comprehensive, Amount Awarded: $23,254.
COMMUNITY SERVICE NETWORK, INC., 52 Broadway, Stoneham, MA 02180–1003, Grant Type: Comprehensive, Amount Awarded: $24,555.	FAMILY AND CHILDREN'S ASSOCIATION, 336 Fulton Ave., Hempstead, NY 11550–3907, Grant Type: Comprehensive, Amount Awarded: $28,459.
FAYETTE COUNTY COMMUNITY ACTION AGENCY, 140 North Beeson Avenue, Uniontown, PA 15401, Grant Type: Comprehensive, Amount Awarded: $26,507.	GRAND RAPIDS URBAN LEAGUE, 745 Eastern Ave., SE., Grand Rapids, MI 49503–5544, Grant Type: Comprehensive, Amount Awarded: $33,015.
FIRST STATE COMMUNITY ACTION AGENCY, INC., 308 N. Railroad Ave., Georgetown, DE 19947–1252, Grant Type: Comprehensive, Amount Awarded: $31,713.	GREATER BOSTON LEGAL SERVICES, 197 Friend Street, Boston, MA 02114–1802, Grant Type: Comprehensive, Amount Awarded: $28,459.
FREDERICK COMMUNITY ACTION AGENCY, 100 S. Market St., Frederick, MD 21701–5527, Grant Type: Comprehensive, Amount Awarded: $20,000.	GREATER EAST SIDE COMMUNITY ASSOCIATION, 2804 N. Franklin Avenue, Flint, MI 48506, Grant Type: Comprehensive, Amount Awarded: $27,809.
FRIENDS OF THE NORTH COUNTRY, 1 Mill Street, P.O. Box 446, Keeseville, NY 12944, Grant Type: Comprehensive, Amount Awarded: $31,713.	GREATER ERIE COMMUNITY ACTION AGENCY, 18 W. 9th St., Erie, PA 16501–1343, Grant Type: Comprehensive, Amount Awarded: $30,412.
GARDEN STATE CONSUMER CREDIT COUNSELING, INC./ NOVADEBT, 225 Willowbrook Road, Freehold, NJ 07728, Grant Type: Comprehensive, Amount Awarded: $20,651.	HARFORD COUNTY HOUSING AGENCY, 15 South Main Street, Suite 106, Bel Air, MD 21014, Grant Type: Comprehensive, Amount Awarded: $21,000.
GARFIELD JUBILEE ASSOCIATION, INCORPORATED, 5138 Penn Ave., Pittsburgh, PA 15224–1616, Grant Type: Comprehensive, Amount Awarded: $30,412.	HOME PARTNERSHIP, INCORPORATED, Rumsey Towers Building, Suite 301, 626 Towne Center Drive, Joppatowne, MD 21085, Grant Type: Comprehensive, Amount Awarded: $27,809.
GARRETT COUNTY COMMUNITY ACTION COMMITTEE, INC., 104 E. Center Street, Oakland, MD 21550–1328, Grant Type: Comprehensive, Amount Awarded: $37,967.	HOME REPAIR SERVICES OF KENT COUNTY, INC., 1100 S. Division Avenue, Grand Rapids, MI 49507, Grant Type: Comprehensive, Amount Awarded: $29,110.
HOMEFRONT, INC., 560 Delaware Avenue, Suite 101, Buffalo, NY 14202, Grant Type: Comprehensive, Amount Awarded: $21,952.	HOUSING OPPORTUNITIES MADE EQUAL, INCORPORATE, 700 East Franklin Street, Suite 3A, Richmond, VA 23219, Grant Type: Comprehensive, Amount Awarded: $30,412.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

HOUSING AUTHORITY OF THE CITY OF PATERSON, 60 Van Houten Street, P.O. Box H, Paterson, NJ 07509, Grant Type: Comprehensive, Amount Awarded: $25,206.	HOUSING PARTNERSHIP FOR MORRIS COUNTY, 2 E. Blackwell Street, Suite 12, Dover, NJ 07801, Grant Type: Comprehensive, Amount Awarded: $29,761.
HOUSING AUTHORITY OF THE COUNTY OF BUTLER, 114 Woody Drive, Butler, PA 16001, Grant Type: Comprehensive, Amount Awarded: $26,507.	INNER CITY CHRISTIAN FEDERATION, 515 Jefferson SE., Grand Rapids, MI 49507, Grant Type: Comprehensive, Amount Awarded: $38,784.
HOUSING COUNCIL IN MONROE COUNTY, INCORPORATE, 183 Main St. E., Suite 1100, Rochester, NY 14604, Grant Type: Comprehensive, Amount Awarded: $29,110.	KANAWHA INSTITUTE FOR SOCIAL RESEARCH & ACTION, INC., 124 Marshall Avenue, Dunbar, WV 25064, Grant Type: Comprehensive, Amount Awarded: $22,603.
HOUSING COUNCIL OF YORK, 35 South Duke Street, York, PA 17401–1106, Grant Type: Comprehensive, Amount Awarded: $25,206.	KEUKA HOUSING COUNCIL, 160 Main Street, Penn Yan, NY 14527, Grant Type: Comprehensive, Amount Awarded: $24,934.
HOUSING COUNSELING SERVICES, INCORPORATED, 2410 17th St., NW., Adams Alley Entrance, Washington, DC 20009, Grant Type: Comprehensive, Amount Awarded: $37,967.	LACONIA AREA COMMUNITY LAND TRUST, P.O. Box 6104, Laconia, NH 03247, Grant Type: Comprehensive, Amount Awarded: $27,000.
HOUSING INITIATIVES PARTNERSHIP, INCORPORATED, 6525 Belcrest Road, Suite 555, Hyattsville, MD 20782, Grant Type: Comprehensive, Amount Awarded: $25,857.	LANSING AFFORDABLE HOMES, INC., 6546 Mercantile Way, 9–S, Lansing, MI 48911, Grant Type: Comprehensive, Amount Awarded: $28,459.
LAWRENCE COUNTY SOCIAL SERVICES, INCORPORATED, 241 W. Grant Street, P.O. Box 189, New Castle, PA 16103–0189, Grant Type: Comprehensive, Amount Awarded: $20,651.	MARYLAND RURAL DEVELOPMENT CORPORATION, 101 Cedar Ave., P.O. Box 739, Greensboro, MD 21639–0739, Grant Type: Comprehensive, Amount Awarded: $26,507.
LIGHTHOUSE COMMUNITY DEVELOPMENT, 46156 Woodward Avenue, Pontiac, MI 48342, Grant Type: Comprehensive, Amount Awarded: $33,015.	MEDIA FELLOWSHIP HOUSE, 302 S. Jackson, Media, PA 19063, Grant Type: Comprehensive, Amount Awarded: $28,459.
LONG ISLAND HOUSING SERVICES, INCORPORATED, 640 Johnson Avenue, Suite 8, Bohemia, NY 11716–2624, Grant Type: Comprehensive, Amount Awarded: $31,062.	METRO-INTERFAITH SERVICES, INCORPORATED, 21 New St., Binghamton, NY 13903, Grant Type: Comprehensive, Amount Awarded: $20,000.
LYNCHBURG COMMUNITY ACTION GROUP, INCORPORATE, 926 Commerce Street, Lynchburg, VA 24504, Grant Type: Comprehensive, Amount Awarded: $27,809.	MID-OHIO REGIONAL PLANNING COMMISSION, 285 E. Main St., Columbus, OH 43215–5272, Grant Type: Comprehensive, Amount Awarded: $30,000.
MANCHESTER NEIGHBORHOOD HOUSING SERVICES, INC., 20 Merrimack Street, Manchester, NH 03101, Grant Type: Comprehensive, Amount Awarded: $25,857.	MONMOUTH COUNTY BOARD OF CHOSEN FREEHOLDERS/ MONMOUTH COUNTY DIVISION OF SOCIAL SERVICES, P.O. Box 3000, Freehold, NJ 07728, Grant Type: Comprehensive, Amount Awarded: $31,062.
MARGERT COMMUNITY CORPORATION, 325 Beach 37th Street, Far Rockaway, NY 11691–4103, Grant Type: Comprehensive, Amount Awarded: $27,158.	MT. AIRY, U S A, 6703 Germantown Ave.—Suite 200, Philadelphia, PA 19119, Grant Type: Comprehensive, Amount Awarded: $29,761.
MARSHALL HEIGHTS COMMUNITY DEVELOPMENT ORGANIZATION, 3939 Benning Road, NE., Washington, DC 20019–2662, Grant Type: Comprehensive, Amount Awarded: $22,603.	NATIONAL COUNCIL ON AGRICULTURAL LIFE AND LAB, 363 Saulsbury Road, Dover, DE 19904–2722, Grant Type: Comprehensive, Amount Awarded: $32,364.
NCCS CENTER FOR NONPROFIT HOUSING, 6308 S. Warner, P.O. Box 149, Fremont, MI 49412, Grant Type: Comprehensive, Amount Awarded: $31,713.	NORTHFIELD COMMUNITY LOCAL DEVELOPMENT CORPORATION, 160 Heberton Ave., Staten Island, NY 10302, Grant Type: Comprehensive, Amount Awarded: $26,507.
NEAR NORTHEAST COMMUNITY IMPROVEMENT CORP., 1326 Florida Ave., NE., Washington, DC 20002–7108, Grant Type: Comprehensive, Amount Awarded: $27,809.	NORTHWEST MICHIGAN HUMAN SERVICES AGENCY, INC., 3963 Three Mile Road, Traverse City, MI 49686–9164, Grant Type: Comprehensive, Amount Awarded: $37,967.
NEIGHBORHOOD HOUSING SERVICES OF NEW BRITAIN, INC., 223 Broad St., New Britain, CT 06053–4107, Grant Type: Comprehensive, Amount Awarded: $26,507.	NORTHWEST OHIO DEVELOPMENT AGENCY, 432 N. Superior Street, Toledo, OH 43604, Grant Type: Comprehensive, Amount Awarded: $20,103.
NEIGHBORHOOD HOUSING SERVICES OF NEW YORK CITY (NHS OF NYC), 307 West 36th St., 12th Floor, New York, NY 10018–6495, Grant Type: Comprehensive, Amount Awarded: $24,555.	OAKLAND COUNTY HOUSING COUNSELING, 250 Elizabeth Lake Road, Suite 1900, Pontiac, MI 48341–0414, Grant Type: Comprehensive, Amount Awarded: $29,761.
NEIGHBORS HELPING NEIGHBORS, INC., 443 39th Street, Suite 202, Brooklyn, NY 11232, Grant Type: Comprehensive, Amount Awarded: $25,857.	OAKLAND LIVINGSTON HUMAN SERVICE AGENCY, 196 Cesar E. Chavez Ave., P.O. Box 430598, Pontiac, MI 48343–0598, Grant Type: Comprehensive, Amount Awarded: $25,206.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

NEW JERSEY CITIZEN ACTION, 744 Broad Street, Suite 2080, Newark, NJ 07102, Grant Type: Comprehensive, Amount Awarded: $39,603.	OCEAN COMMUNITY ECONOMIC ACTION NOW, INC. (O.C.E.A.N.), 22 Hyers, P.O. Box 1029, 40 Washington Street, Toms River, NJ 08753, Grant Type: Comprehensive, Amount Awarded: $21,301.
NEWPORT NEWS OFFICE OF HUMAN AFFAIRS, 392 Maple Ave., P.O. Box 37, Newport News, VA 23607, Grant Type: Comprehensive, Amount Awarded: $25,206.	OPPORTUNITIES FOR CHENANGO, INC., 44 W. Main St., P.O. Box 470, Norwich, NY 13815–1613, Grant Type: Comprehensive, Amount Awarded: $31,062.
OSWEGO HOUSING DEVELOPMENT COUNCIL, INC., 2971 County Rte 26, P.O. Box 147, Parish, NY 13131, Grant Type: Comprehensive, Amount Awarded: $37,150.	PLYMOUTH REDEVELOPMENT AUTHORITY, 11 Lincoln Street, Plymouth, MA 02360, Grant Type: Comprehensive, Amount Awarded: $31,062.
PEOPLE INCORPORATED OF SOUTHWEST VIRGINIA, 1173 W. Main Street, Abingdon, VA 24210–2428, Grant Type: Comprehensive, Amount Awarded: $30,412.	PRINCE WILLIAM COUNTY VIRGINIA COOPERATIVE EXTENSION, 8033 Ashton Ave., Ste 105, Manassas, VA 20109–8202, Grant Type: Comprehensive, Amount Awarded: $30,412.
PEOPLES REGIONAL OPPORTUNITY PROGRAM, 510 Cumberland Avenue, Portland, ME 04101, Grant Type: Comprehensive, Amount Awarded: $27,158.	PRO-HOME, INC., P.O. Box 2793, Taunton, MA 02780, Grant Type: Comprehensive, Amount Awarded: $25,857.
PHILADELPHIA COUNCIL FOR COMMUNITY ADVANCEMENT, 100 North 17th Street—Suite 700, Philadelphia, PA 19103–2736, Grant Type: Comprehensive, Amount Awarded: $29,110.	PUTNAM COUNTY HOUSING CORPORATION, 11 Seminary Hill Road, Carmel, NY 10512, Grant Type: Comprehensive, Amount Awarded: $28,459.
PHOENIX HOUSING & COUNSELING NON-PROFIT, INCORPORATED, 1640 Porter St., Detroit, MI 48216–1936, Grant Type: Comprehensive, Amount Awarded: $21,301.	QUIN RIVERS AGENCY FOR COMMUNITY ACTION, INC., 104 Roxbury Industrial Center, Charles City, VA 23030, Grant Type: Comprehensive, Amount Awarded: $21,952.
PIEDMONT HOUSING ALLIANCE, 111 Monticello Ave., Ste. 104, Charlottesville, VA 22902, Grant Type: Comprehensive, Amount Awarded: $28,459.	QUINCY COMMUNITY ACTION PROGRAMS, INCORPORATE, 1509 Hancock St., Quincy, MA 02169–5200, Grant Type: Comprehensive, Amount Awarded: $28,459.
PINE TREE LEGAL SERVICES, INCORPORATED, 88 Federal St., P.O. Box 547, Portland, ME 04112, Grant Type: Comprehensive, Amount Awarded: $29,110.	ROCKLAND HOUSING ACTION COALITION, 95 New Clarkstown Road, Nanuet, NY 10954, Grant Type: Comprehensive, Amount Awarded: $30,412.
RURAL ULSTER PRESERVATION COMPANY, 289 Fair St., Kingston, NY 12401, Grant Type: Comprehensive, Amount Awarded: $33,015.	SOUTHWEST MICHIGAN COMMUNITY ACTION AGENCY, 185 E. Main Street, Suite 200, Benton Harbor, MI 49022, Grant Type: Comprehensive, Amount Awarded: $22,700.
SCHUYLKILL COMMUNITY ACTION, 206 North Second Street, Pottsville, PA 17901, Grant Type: Comprehensive, Amount Awarded: $20,110.	SOUTHWESTERN PENNSYLVANIA LEGAL SERVICES, INC., 10 West Cherry Avenue, Central Office, Washington, PA 15301, Grant Type: Comprehensive, Amount Awarded: $32,364.
SKYLINE COMMUNITY ACTION PROGRAM, INCORPORATE, 31 Stanard Street, P.O. Box 508, Stanardsville, VA 22973, Grant Type: Comprehensive, Amount Awarded: $31,713.	SPRINGFIELD PARTNERS FOR COMMUNITY ACTION, 619 State Street, Springfield, MA 01109–4114, Grant Type: Comprehensive, Amount Awarded: $23,254.
SOMERSET COUNTY COALITION ON AFFORDABLE HOUSING, INC., 600 First Avenue, Suite 3, Raritan, NJ 08869, Grant Type: Comprehensive, Amount Awarded: $32,364.	ST. JAMES COMMUNITY DEVELOPMENT CORPORATION, 402 Broad Street, Newark, NJ 07104, Grant Type: Comprehensive, Amount Awarded: $20,651.
SOUTHERN APPALACHIAN LABOR SCHOOL FOUNDATION, INC., P.O. Box 127, 735 Beards Fork Rd., Beards Fork, WV, Kincaid, WV 25119, Grant Type: Comprehensive, Amount Awarded: $21,952.	STARK METROPOLITAN HOUSING AUTHORITY, 400 E. Tuscarawas Street, Canton, OH 44702, Grant Type: Comprehensive, Amount Awarded: $21,952.
SOUTHERN MARYLAND TRI-COUNTY COMMUNITY ACTION, 8383 Leonardtown Rd., P.O. Box 280, Hughesville, MD 20637, Grant Type: Comprehensive, Amount Awarded: $27,158.	STRYCKER'S BAY NEIGHBORHOOD COUNCIL, INCORPORATED, 61 West 87th Street, Lower Level, New York, NY 10024, Grant Type: Comprehensive, Amount Awarded: $21,301.
TELAMON CORPORATION, 111 Henry St., P.O. Box 500, Gretna, VA 24557–0500, Grant Type: Comprehensive, Amount Awarded: $20,000.	TRI-COUNTY HOUSING COUNCIL, 143 Hibbard Road, P.O. Box 451, Big Flats, NY 14814, Grant Type: Comprehensive, Amount Awarded: $25,206.
THE SOUTHEASTERN TIDEWATER OPPORTUNITY PROJEC, 2551 Almeda Ave., Norfolk, VA 23513–2443, Grant Type: Comprehensive, Amount Awarded: $23,254.	TROY REHABILITATION AND IMPROVEMENT PROGRAM, 415 River Street, Ste. 3, Troy, NY 12180, Main Office, Troy, NY 12180, Grant Type: Comprehensive, Amount Awarded: $37,967.
THE TREHAB CENTER INC., 10 Public Avenue, P.O. Box 366, Montrose, PA 18801–0366, Grant Type: Comprehensive, Amount Awarded: $28,459.	UNITED NEIGHBORHOOD CENTERS OF LACKAWANNA COUNTY, 425 Alder Street, Scranton, PA 18505, Grant Type: Comprehensive, Amount Awarded: $31,062.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

THE URBAN LEAGUE OF RHODE ISLAND, 246 Prairie Ave., Providence, RI 02905–2397, Grant Type: Comprehensive, Amount Awarded: $28,459.	UNIVERSITY LEGAL SERVICES, 220 I St., NE., Ste. 130, Washington, DC 20002–4389, Grant Type: Comprehensive, Amount Awarded: $23,904.
THE WAY HOME, 214 Spruce Street, Manchester, NH 03103, Grant Type: Comprehensive, Amount Awarded: $30,412.	WASHINGTON COUNTY COMMUNITY ACTION COUNCIL, 101 Summit Ave., Hagerstown, MD 21740, Grant Type: Comprehensive, Amount Awarded: $29,761.
TOTAL ACTION AGAINST POVERTY IN ROANOKE VALLEY, 145 Campbell Ave., Suite 700, Roanoke, VA 24011, Grant Type: Comprehensive, Amount Awarded: $28,459.	WESTCHESTER RESIDENTIAL OPPORTUNITIES, INCORPORATED, 470 Mamaroneck Ave., Suite 410, White Plains, NY 10605–1830, Grant Type: Comprehensive, Amount Awarded: $28,459.
TRI-CITY PEOPLES CORPORATION, 675 S. 19th Street, Newark, NJ 07103, Grant Type: Comprehensive, Amount Awarded: $20,000.	WESTERN CATSKILLS COMMUNITY REVITALIZATION COUNCIL, INC., 125 Main Street, Box A, Stamford, NY 12167, Grant Type: Comprehensive, Amount Awarded: $27,158.
WORKING IN NEIGHBORHOODS, 1814 Dreman Avenue, Cincinnati, OH 45223, Grant Type: Comprehensive, Amount Awarded: $29,110.	WSOS COMMUNITY ACTION COMMISSION, INC., 109 S. Front Street, P.O. Box 590, Fremont, OH 43420, Grant Type: Comprehensive, Amount Awarded: $27,158.
YWCA OF NEW CASTLE COUNTY, 233 King St., Wilmington, DE 19801–2521, Grant Type: Comprehensive, Amount Awarded: $33,015.	
SANTA ANA (LHCA–COMP)	
ACCESS INCORPORATED, 3630 Aviation Way, P.O. Box 4666, Medford, OR 97501, Grant Type: Comprehensive, Amount Awarded: $62,195.	ASIAN INCORPORATED, 1670 Pine Street, San Francisco, CA 94109, Grant Type: Comprehensive, Amount Awarded: $48,130.
ADMINISTRATION OF RESOURCES AND CHOICES, P.O. Box 86802, Tucson, AZ 85754, Grant Type: Comprehensive, Amount Awarded: $20,000.	BYDESIGN FINANCIAL SOLUTIONS, DBA CCCS OF LOS ANGELES, 5628 E. Slauson Ave., Los Angeles, CA 90040–2922, Grant Type: Comprehensive, Amount Awarded: $90,324.
ANAHEIM HOUSING AUTHORITY—ANAHEIM HOUSING COUNSELING AGENCY, 201 S. Anaheim Blvd., Suite 203, Anaheim, CA 92805, Grant Type: Comprehensive, Amount Awarded: $48,130.	CITY OF VACAVILLE OFFICE OF HOUSING AND REDEVELOPMENT, 40 Eldridge Ave., Suite 2, Vacaville, CA 95688–6800, Grant Type: Comprehensive, Amount Awarded: $30,549.
COMMUNITY ACTION PARTNERSHIP, 124 New Sixth Street, Lewiston, ID 83501, Grant Type: Comprehensive, Amount Awarded: $72,743.	CONSUMER CREDIT COUNSELING SERVICE OF SOUTHERN NEVADA, 2650 S. Jones Blvd., Las Vegas, NV 89146, Grant Type: Comprehensive, Amount Awarded: $131,316.
COMMUNITY HOUSING IMPROVEMENT PROGRAM (CHIP)—COMM. HSG & CREDIT COUNSELING CTR, 1001 Willow Street, Chico, CA 95928, Grant Type: Comprehensive, Amount Awarded: $20,000.	CONSUMER CREDIT COUNSELORS OF KERN AND TULARE COUNTIES, 5300 Lennox Ave., Ste. 200, Bakersfield, CA 93309–1662, Grant Type: Comprehensive, Amount Awarded: $37,581.
COMMUNITY HOUSING RESOURCE CENTER, 3801–A Main Street, Vancouver, WA 98663–2241, Grant Type: Comprehensive, Amount Awarded: $60,000.	CONSUMER CREDIT COUNSELORS OF ORANGE COUNTY, 1920 Old Tustin Ave., (P.O. Box 11330, Santa Ana, CA 92711–1330), Santa Ana, CA 92705, Grant Type: Comprehensive, Amount Awarded: $83,292.
CONSUMER CREDIT COUNSELING SERVICE OF ALASKA, 208 E. 4th Ave., Anchorage, AK 99501–2508, Grant Type: Comprehensive, Amount Awarded: $55,162.	EDEN COUNCIL FOR HOPE AND OPPORTUNITY (ECHO), 770 A St., Hayward, CA 94541–3956, Grant Type: Comprehensive, Amount Awarded: $41,097.
FAMILY HOUSING RESOURCES, 1700 East Fort Lowell Road, Suite 101, Tucson, AZ 85719, Grant Type: Comprehensive, Amount Awarded: $69,227.	FREMONT PUBLIC ASSOCIATION, 1501 North 45th Street, Seattle, WA 98103–6708, Grant Type: Comprehensive, Amount Awarded: $72,743.
HOUSING AUTHORITY OF THE CITY OF FRESNO, 1331 Fulton Mall, P.O. Box 11985, Fresno, CA 93776, Grant Type: Comprehensive, Amount Awarded: $131,316.	HUMAN RIGHTS/FAIR HOUSING COMMISSION, 1112 I Street, Suite 250, Sacramento, CA 95814, Grant Type: Comprehensive, Amount Awarded: $20,000.
INLAND MEDIATION BOARD, 60 East 9th Street, Suite 100, Upland, CA 91786, Grant Type: Comprehensive, Amount Awarded: $69,227.	MONTEREY COUNTY HOUSING ALLIANCE (MOCHA), 134 East Rossi Street, Salinas, CA 93901, Grant Type: Comprehensive, Amount Awarded: $20,000.
KITSAP COUNTY CONSOLIDATED HOUSING AUTHORITY, 9307 Bayshore Drive, NW., Silverdale, WA 98383–9113, Grant Type: Comprehensive, Amount Awarded: $62,195.	NEIGHBORHOOD HOUSE ASSOCIATION, 841 S. 41st Street, San Diego, CA 92113, Grant Type: Comprehensive, Amount Awarded: $86,808.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

LABOR'S COMMUNITY SERVICE AGENCY, 5818 N. 7th St., Ste. 100, Phoenix, AZ 85014–5810, Grant Type: Comprehensive, Amount Awarded: $30,549.	OPEN DOOR COUNSELING CENTER, 34420 SW Tualatin Valley Hwy., Hillsboro, OR 97123–5470, Grant Type: Comprehensive, Amount Awarded: $65,711.
LAO FAMILY COMMUNITY DEVELOPMENT, INC., 1551–23rd Avenue, Oakland, CA 94606, Grant Type: Comprehensive, Amount Awarded: $79,776.	ORANGE COUNTY FAIR HOUSING COUNCIL, INC., 201 S. Broadway, Santa Ana, CA 92701–5633, Grant Type: Comprehensive, Amount Awarded: $65,711.
LEGAL AID SOCIETY OF HAWAII, 924 Bethel Street, P.O. Box 37375, Honolulu, HI 96813, Grant Type: Comprehensive, Amount Awarded: $41,097.	PACIFIC COMMUNITY SERVICES, INC., 329 Railroad Ave., Pittsburg, CA 94565–2245, Grant Type: Comprehensive, Amount Awarded: $37,581.
MISSION ECONOMIC DEVELOPMENT ASSOCIATION (MEDA), 3505 20th St., San Francisco, CA 94110, Grant Type: Comprehensive, Amount Awarded: $62,195.	PROJECT SENTINEL, 430 Sherman Avenue, Suite 308, Palo Alto, CA 94306, Grant Type: Comprehensive, Amount Awarded: $79,776.
PIERCE COUNTY, DEPARTMENT OF COMMUNITY SERVICE, 3602 Pacific Avenue, Suite 200, Tacoma, WA 98418–7920, Grant Type: Comprehensive, Amount Awarded: $20,000.	SACRAMENTO NEIGHBORHOOD HOUSING SERVICES, INC., 3447 Fifth Ave., P.O. Box 5420, Sacramento, CA 95817, Grant Type: Comprehensive, Amount Awarded: $58,678.
SAN DIEGO HOME LOAN COUNSELING AND EDUCATION CENTER, 3180 University Avenue, Suite 430, San Diego, CA 92104, Grant Type: Comprehensive, Amount Awarded: $27,032.	SPRINGBOARD NON PROFIT CONSUMER CREDIT MANAGEMENT INC., 4351 Latham Street, Riverside, CA 92501, Grant Type: Comprehensive, Amount Awarded: $131,316.
SAN FRANCISCO HOUSING DEVELOPMENT CORPORATION, 5266 Third St., San Francisco, CA 94124, Grant Type: Comprehensive, Amount Awarded: $30,549.	UMPQUA COMMUNITY ACTION NETWORK, 2448 W. Harvard Blvd., Roseburg, OR 97470, Grant Type: Comprehensive, Amount Awarded: $30,000.
SOUTHEASTERN ARIZONA GOVERNMENTS ORGANIZATION, 118 Arizona St., Bisbee, AZ 85603–1800, Grant Type: Comprehensive, Amount Awarded: $40,000.	WASHOE COUNTY DEPT OF SENIOR SERVICES—SENIOR LAW PROJECT, 1155 E. Ninth St., Reno, NV 89512, Grant Type: Comprehensive, Amount Awarded: $38,000.
SPOKANE NEIGHBORHOOD ACTION PROGRAMS, 2116 East First Avenue, Spokane, WA 99202–3937, Grant Type: Comprehensive, Amount Awarded: $69,227.	WOMEN'S DEVELOPMENT CENTER, 4020 Pecos McLeod, Las Vegas, NV 89121, Grant Type: Comprehensive, Amount Awarded: $58,678.
SPRINGBOARD NON PROFIT CONSUMER CREDIT MANAGEMENT INC., 4351 Latham Street, Riverside, CA 92501, Grant Type: Comprehensive, Amount Awarded: $131,316.	
STATE HOUSING FINANCE AGENCIES (16)	
ATLANTA (SHFA–COMP)	
GEORGIA HOUSING AND FINANCE AUTHORITY, 60 Executive Park South, NE., Atlanta, GA 30329–2231, Grant Type: Comprehensive, Amount Awarded: $184,000.	MISSISSIPPI HOME CORPORATION, 735 Riverside Drive, P.O. Box 23369, Jackson, MS 39225–3369, Grant Type: Comprehensive, Amount Awarded: $137,353.
KENTUCKY HOUSING CORPORATION, 1231 Louisville Road, Frankfort, KY 40601, Grant Type: Comprehensive, Amount Awarded: $294,533.	
DENVER (SHFA–COMP)	
IOWA FINANCE AUTHORITY, 100 E. Grand Ave., Suite 250, Des Moines, IA 50309, Grant Type: Comprehensive, Amount Awarded: $85,095.	NEW MEXICO MORTGAGE FINANCE AUTHORITY, 344 Fourth Street, SW., P.O. Box 2047, Albuquerque, NM 87102, Grant Type: Comprehensive, Amount Awarded: $145,809.
MONTANA BOARD OF HOUSING, Box 200528, Helena, MT 59620, Grant Type: Comprehensive, Amount Awarded: $96,795.	NORTH DAKOTA HOUSING FINANCE AGENCY, 1500 East Capitol Avenue, P.O. Box 1535, Bismarck, ND 58502–1535, Grant Type: Comprehensive, Amount Awarded: $141,300.
SOUTH DAKOTA HOUSING DEVELOPMENT AUTHORITY, 221 South Central, P.O. Box 1237, Pierre, SD 57501–1237, Grant Type: Comprehensive, Amount Awarded: $120,260.	
PHILADELPHIA (SHFA–COMP)	
MAINE STATE HOUSING AUTHORITY, 353 Water Street, Augusta, ME 04330, Grant Type: Comprehensive, Amount Awarded: $100,000.	NEW HAMPSHIRE HOUSING FINANCE AUTHORITY, 32 Constitution Drive, Bedford, NH 03110, Grant Type: Comprehensive, Amount Awarded: $75,332.
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY, 735 E. Michigan Avenue, P.O. Box 30044, Lansing, MI 48909, Grant Type: Comprehensive, Amount Awarded: $92,219.	PENNSYLVANIA HOUSING FINANCE AGENCY, 211 North Front Street, Harrisburg, PA 17101–1406, Grant Type: Comprehensive, Amount Awarded: $112,000.

APPENDIX A.—FISCAL YEAR 2006 HOUSING COUNSELING GRANTS—Continued

RHODE ISLAND HOUSING AND MORTGAGE FINANCE CORPORATION, 44 Washington St., Providence, RI 02903–1721, Grant Type: Comprehensive, Amount Awarded: $132,209.	VIRGINIA HOUSING DEVELOPMENT AUTHORITY, 601 S. Belvedere Street, Richmond, VA 23220, Grant Type: Comprehensive, Amount Awarded: $83,776.
SANTA ANA (SHFA–COMP)	
IDAHO HOUSING AND FINANCE ASSOCIATION, 565 West Myrtle, P.O. Box 7899, Boise, ID 83702, Grant Type: Comprehensive, Amount Awarded: $212,610.	WASHINGTON STATE HOUSING FINANCE COMMISSION, 1000 2nd Avenue, Suite 2700, Seattle, WA 98104–1046, Grant Type: Comprehensive, Amount Awarded: $151,509.
HECM (2) INTERMEDIARY (HECM)	
MONEY MANAGEMENT INTERNATIONAL INC., 9009 West Loop South, Suite 700, Houston, TX 77096–1719, Grant Type: HECM, Amount Awarded: $1,147,586.	NATIONAL FOUNDATION FOR CREDIT COUNSELING, INC., 801 Roeder Road, Suite 900, Silver Spring, MD 20910–3372, Grant Type: HECM, Amount Awarded: $1,852,414.

[FR Doc. E8–4306 Filed 3–5–08; 8:45 am]
BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Manzanita Band of Kumeyaay Indians Fee-to-Trust Transfer and Casino Project, Calexico, Imperial County, CA

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA), as lead agency, with the National Indian Gaming Commission, the City of Calexico and the Manzanita Band of Kumeyaay Indians (Tribe) as cooperating agencies, intends to gather information necessary for preparing an Environmental Impact Statement (EIS) for a proposed 60.8-acre fee-to-trust transfer and casino project in Calexico, Imperial County, California. This notice also announces a public scoping meeting to identify potential issues, concerns and alternatives to be considered in the EIS.

DATES: Written comments on the scope and implementation of this proposal must arrive by April 7, 2008. The public scoping meeting will be held March 27, 2008, from 6 p.m. to 9 p.m., or until all those who register to make statements have been heard.

ADDRESSES: You may mail or hand carry written comments to Amy Dutschke, Acting Regional Director, Pacific Regional Office, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825. Please include your name, return caption, address and ''DEIS Scoping Comments, Manzanita Band of Kumeyaay Indians, 60.8-acre fee-to-trust Casino Project, Calexico, California,'' on the first page of your written comments.

The public scoping meeting will be held at the County of Imperial Board of Supervisors Chamber Room, 940 West Main Street, Suite 211, El Centro, California 92243.

FOR FURTHER INFORMATION CONTACT: John Rydzik, (916) 978–6042.

SUPPLEMENTARY INFORMATION: The Tribe proposes that 60.8 acres of land be taken into trust and plans to develop a casino facility on the land. The property is located at the northernmost gateway to the City of Calexico, a California/Mexico border city of growing importance in international trade. The project site is situated at the southwest quadrant of State Highway 111 and Jasper Road and is bounded on the south and west by the Central Main and Dogwood Canals. The 60.8-acre parcel is undeveloped, former agricultural land and is located within the site of the City of Calexico's proposed 111 Calexico Place commercial highway development project.

The Tribe proposes to develop a 220,000-square-foot casino facility on the 60.8-acre parcel. The casino facility would include approximately 90,000 square feet of gaming space, 120,000 square feet of food/beverage and retail components and 10,000 square feet of entertainment venue. In addition, there would be a 50,000-square-foot banquet/meeting hall and a 260-room hotel. The casino would have 2,000 slot machines and 45 gaming tables. There will be three guest restaurants and one employee dining room. A swimming pool and a parking structure containing 3,000 spaces for guests and 400 valet parking spaces would also be developed within the project area.

The Tribe's application seeks to take a 60.8-acre off-reservation parcel into trust under Section 5 of the Indian Reorganization Act and implementing regulations in 25 CFR part 151, and requests a Secretarial determination under Section 20(b) (1) (A) of the Indian Gaming Regulatory Act that a proposed gaming establishment on the parcel would be in the best interest of the Tribe and its members, and not detrimental to the surrounding community. The purpose of the proposed action is to help improve the tribal economy of the Manzanita Band and assist tribal members to attain economic self-sufficiency. We are aware that some members of the public have expressed concern about off-reservation gaming. In this case, the parcel is located approximately 50 miles from the Tribe's reservation. We are soliciting and will consider accommodating the views of elected officials (State, county, city, etc.) and community members in the local area as part of our decision making process. We also plan a more detailed consideration of the broad implications associated with new gaming operations within established communities where gaming is not currently conducted.

Areas of environmental concern to be addressed in the EIS include land resources, water resources, biological resources, cultural resources, traffic and transportation, noise, air quality, public health/environmental hazards, public services and utilities, hazardous waste and materials, socio-economics, environmental justice and visual resources/aesthetics. In addition to the proposed action, a reasonable range of alternatives, including the no-action alternative will be analyzed in the EIS. The range of issues and alternatives may be expanded based on comments received during the scoping process.

Public Comment Availability

Before including your address, phone number, e-mail address, or other

personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is published in accordance with sections 1501.7, 1506.6 and 1508.22 of the Council of Environmental Quality Regulations (40 CFR, Parts 1500 through 1508) implementing the procedural requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4371, *et seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.l.

Dated: February 15, 2008.

Carl J. Artman,

Assistant Secretary, Indian Affairs.

[FR Doc. E8–4354 Filed 3–5–08; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Cancellation of the Environmental Impact Statement for the Proposed Stockbridge—Munsee Casino, Sullivan County, NY

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) intends to cancel work on the Environmental Impact Statement (EIS) for the proposed taking into federal trust of land in Sullivan County, New York, for the Stockbridge—Munsee Community Band of Mohican Indians of Wisconsin (Tribe). The Tribe proposed to develop and operate a Class III gaming facility and associated facilities on the trust property. The EIS is no longer needed because the Department of the Interior has decided not to accept the land into trust, on the basis that the proposed action did not adequately meet criteria in 25 CFR 151.3; 151.10(b); 151.10(c); and 151.11(b) for trust acquisition.

DATES: This cancellation is effective April 8, 2008. Any written comments must arrive by April 7, 2008.

ADDRESSES: You may mail, hand carry or fax written comments to Mr. Franklin Keel, Regional Director, Eastern Region, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214, fax (615) 564–6701.

FOR FURTHER INFORMATION CONTACT: Kurt G. Chandler, (615) 564–6832.

SUPPLEMENTARY INFORMATION: The BIA published its Notice of Intent to prepare the EIS on November 24, 2003, in the **Federal Register** (68 FR 65467). The notice included project details. The U.S. Environmental Protection Agency published its Notice of Availability of the Draft EIS for this proposed action on February 11, 2005, in the **Federal Register** (70 FR 7257).

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the BIA address shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is published in accordance with sections 1503.1 and 1506.6 of the Council on Environmental Quality Regulations (40 CFR parts 1500 through 1508) implementing the procedural requirements of the National Environmental Quality Act of 1969, as amended (42 U.S.C. 4321 *et. seq.*), and the Department of the Interior Manual (516 DM 1–6), and is in the exercise of authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.1.

Dated: February 22, 2008.

James E. Cason,

Associate Deputy Secretary.

[FR Doc. E8–4356 Filed 3–5–08; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Prepare an Environmental Impact Statement for the Proposed Trust Acquisition of an Initial Reservation for the Mashpee Wampanoag Tribe in the Town of Mashpee, Barnstable County, and Town of Middleboro, Plymouth County, MA, Including a Gaming Facility at the Middleboro Property

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Bureau of Indian Affairs (BIA) as Lead Agency, with the Mashpee Wampanoag Tribe (Tribe) as Cooperating Agency, will be gathering information needed for an Environmental Impact Statement (EIS) for the proposed trust acquisition of approximately 679 acres of land as the Tribe's initial reservation. The proposed acquisition includes approximately 140 acres in the Town of Mashpee, Barnstable County, Massachusetts, and approximately 539 acres in the Town of Middleboro, Plymouth County, Massachusetts. The property in Mashpee would be used for tribal administrative and cultural purposes and housing for tribal members. For the property in Middleboro, the Tribe plans the construction of a gaming facility with related facilities. The purposes of the proposed federal action are to provide a land base for the Tribe and to help meet the economic needs of the Tribe and its members. This notice also announces public scoping meetings to identify potential issues, alternatives and content for inclusion in the EIS.

DATES: Written comments on the scope and implementation of this proposal must arrive by April 9, 2008. The public scoping meetings will be held March 25 and March 26, 2008, starting at 6 p.m. and continuing until all those who register to make statements have been heard.

ADDRESSES: You may mail, hand carry or fax written comments to Franklin Keel, Regional Director, Eastern Regional Office, Bureau of Indian Affairs, 545 Marriott Drive, Suite 700, Nashville, Tennessee 37214, fax (615) 564–6550.

The March 25, 2008, meeting will be at the Middlboro High School Auditorium, 71 East Grove Street, Middleboro, Massachusetts. The March 26, 2008, meeting will be at the Mashpee High School Auditorium, 500

Old Barnstable Road, Mashpee, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Kurt Chandler (615) 564–6832.

SUPPLEMENTARY INFORMATION: The BIA is considering the Tribe's application for approximately 679 acres of land to be taken into trust as the Tribe's initial reservation as a newly acknowledged Indian tribe. The Tribe's application includes some properties in Mashpee, Barnstable County, Massachusetts, and some properties in Middleboro, Plymouth County, Massachusetts. The properties located in Mashpee amount to approximately 140 acres. Most of these lands have been owned or used by the Tribe or organizations controlled by or related to the Tribe for many years, and are currently used for tribal administrative and cultural purposes (such as the Old Meeting House and tribal museum) and as conservation land. These uses would not change. Some of the Mashpee lands would also be used to build homes for tribal members and their families.

The properties in Middleboro, a number of contiguous parcels totaling approximately 539 acres, are located along Route 44, about 3.5 miles east of exit 6 on Interstate 495. Although the eventual size and scope of the facilities may be modified based on information obtained through the EIS process, the Tribe's current plans for the Middleboro land include the construction of a destination resort and gaming facility, with a 750 to 1500 room hotel, restaurants and food court with a variety of offerings, a 5,000 to 10,000 seat entertainment venue, approximately 80,000 square feet of convention event space, retail shops, a service station, a warehouse and employee services. The project also includes plans for Native American cultural attractions and for recreational facilities, such as a spa, golf course and water park. In addition, there would be approximately 10,000 parking spaces, the majority of which would be in parking garages or under the casino.

The proposed federal action encompasses all of the various federal approvals required to implement the Tribe's fee-to-trust application. Areas of environmental concern identified so far for analysis in the EIS include water resources and wetlands, stormwater management and erosion control, air quality, biological resources, historic properties and other cultural resources, socioeconomic conditions, traffic and transportation, land use, public utilities and services, noise, lighting, hazardous materials, environmental justice, visual resources and aesthetics, and cumulative impacts. The range of issues and alternatives addressed in the EIS may be expanded or reduced, based on comments received in response to this notice and from the public scoping meetings.

The action the BIA is considering—accepting title to the property in trust, and declaring the land to be the Tribe's reservation—is a federal undertaking with the potential to affect historic properties. As such, it is subject to the requirements of section 106 of the National Historic Preservation Act of 1966 (16 U.S.C. 470f.). In accordance with regulations issued by the Advisory Council on Historic Preservation, 36 CFR part 800, the BIA intends to coordinate compliance with section 106 of this Act with the preparation of the EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8(c)(1).

Public Comment Availability

Comments, including names and addresses of respondents, will be available for public review at the mailing address shown in the **ADDRESSES** section, during regular business hours, 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. Before including your address, phone number, e-mail address or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority

This notice is published under authority delegated to the Assistant Secretary—Indian Affairs by 209 DM 8.1 and in accordance with the following:

—The Council on Environmental Quality Regulations (40 CFR 1503.1 and 1506.6);

—The National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et. seq.*); and

—The Department of the Interior Manual (516 DM 1–6).

Dated: February 14, 2008.

Carl J. Artman,

Assistant Secretary, Indian Affairs.

[FR Doc. E8–4353 Filed 3–5–08; 8:45 am]

BILLING CODE 4310–W7–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the Arizona State Museum, University of Arizona, Tucson, AZ, that meet the definition of ''unassociated funerary objects'' or ''sacred objects'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

The 3,134 unassociated funerary objects are 6 awls, 1 bone tube, 2 pieces botanical material, 5 ceramic bowls, 9 ceramic jars, 1 ceramic pitcher, 1 ceramic sherd, 9 clumps of charred botanical material, 67 charred textile fragments, 1 feather cord, 1 fiber belt fragment, 1 fiber net fragment, 1 figurine fragment, 51 fur robe fragments, 38 projectile points, 1 quartz crystal, 7 shells, 487 shell beads, 2 shell bracelets, 1 stone pestle, 2 textile bag fragments, 7 textile fragments, 2,425 turquoise beads, and 8 wooden sticks.

The three sacred objects are two wooden prayer sticks and one wooden peg.

From 1960 to 1961, cultural items were removed from the Bartley site, AZ T:14:11(ASM), on the Gila Bend Indian Reservation, Maricopa County, AZ, during legally authorized excavations conducted by the Arizona State Museum under the direction of William Wasley and Alfred Johnson. The excavations were conducted under contract with the National Park Service as part of the Painted Rocks Reservoir Project. The cultural items were accessioned into the collections of the Arizona State Museum in 1961. The 18 unassociated funerary objects are 4 ceramic bowls, 2 ceramic jars, 1 shell,

2 shell bracelets, and 9 clumps of charred botanical material.

At an unknown date, cultural items were removed from the Bartley site, AZ T:14:11(ASM), on the Gila Bend Indian Reservation, Maricopa County, AZ, by an unknown person. The cultural items were subsequently acquired by Norton Allen, who donated them to the Arizona State Museum in 1997. The 69 unassociated funerary objects are 1 ceramic jar, 1 ceramic bowl, and 67 charred textile fragments.

The ceramic assemblage indicates that the Bartley site was occupied during the Classic period of the Hohokam Archaeological tradition, approximately A.D. 1200–1450.

From 1960 to 1961, a cultural item was removed from the Ring site, AZ T:14:12(ASM), on the Gila Bend Indian Reservation, Maricopa County, AZ, during legally authorized excavations conducted by the Arizona State Museum under the direction of William Wasley and Alfred Johnson. The excavations were conducted under contract with the National Park Service as part of the Painted Rocks Reservoir Project. The cultural item was accessioned into the collections of the Arizona State Museum in 1961. The one unassociated funerary object is a quartz crystal.

The ceramic assemblage indicates that the Ring site was occupied during the Classic period of the Hohokam Archaeological tradition, approximately A.D. 1200–1450.

In 1927, a cultural item was removed from a site near Aguirre Wash, AZ AA:10:— vicinity, on the Tohono O'odham Indian Reservation, Pima County, AZ, by Byron Cummings and brought to the Arizona State Museum. Records indicate that the object was associated with a grave that was exposed by erosion in the side of a wash. The one unassociated funerary object is a ceramic jar.

The ceramic type establishes a date from approximately A.D. 1700 to 1920.

At an unknown date prior to October 1935, cultural items were removed from a construction site in the vicinity of the Slate Mountains, AZ AA:5:— vicinity, on the Tohono O'odham Indian Reservation, Pinal County, AZ, by Alden Jones. Mr. Jones gave them to another individual, who then donated them to the Arizona State Museum in 1935. The 2,913 unassociated funerary objects are 487 shell beads, 2,425 turquoise beads, and 1 ceramic jar.

Based on the ceramic type, the unassociated funerary objects are associated with the Hohokam Archaeological tradition, approximately A.D. 650–1500.

From 1930 to 1932, cultural items were removed from Martinez Hill Ruin AZ BB:13:3(ASM), on the San Xavier Indian Reservation, Pima County, AZ, during legally authorized excavations conducted by the University of Arizona under the direction of Byron Cummings and accession into the collections of the Arizona State Museum at an unknown date prior to 1953. The 11 unassociated funerary objects are 1 bone tube, 3 ceramic jars, 1 ceramic pitcher, and 6 shells.

Architectural forms (platform mounds, adobe room blocks, and compound walls) and ceramic types indicate occupation of the Martinez Hill site during the Tucson phase of the late Classic period of the Hohokam Archaeological tradition, approximately A.D. 1300–1450. Mortuary practices and the types of funerary objects are consistent with this determination.

In 1942, a cultural item was removed from site AZ DD:2:7(ASM), east of Sells on the San Xavier Indian Reservation, Pima County, AZ, during an archeological survey of the reservation conducted by the Arizona State Museum under the direction of Emil Haury. The one unassociated funerary object is a ceramic jar that held cremated human remains at the time of discovery. The vessel was accessioned into the museum's collections in 1943, but there is no information regarding the disposition of the human remains.

Based on the stratigraphic location of the burial and the ceramic type, the object dates to the Vamori or Topowa phases of the Hohokam Archaeological tradition, approximately A.D. 700–1150.

From 1941 to 1942, cultural items were removed from Ventana Cave, AZ Z:12:5(ASM), on the Tohono O'odham Indian Reservation, Pima County, AZ, during legally authorized excavations conducted by the University of Arizona under the direction of Emil Haury. The cultural items were accessioned into the collections of the Arizona State Museum in 1942. The 66 unassociated funerary objects are 6 bone awls, 2 pieces of botanical material, 1 ceramic sherd, 1 feather cord, 1 fiber belt fragment, 1 fiber net fragment, 51 fur robe fragments, 2 textile bag fragments, and 1 textile sash fragment.

Ventana Cave is a deeply stratified site with deposits extending from the late Pleistocene to modern times. The deepest layers have fossils from extinct Pleistocene animals. Lower stratigraphic layers contain stone tool fragments characteristic of Folsom culture. There are also deposits that contain artifacts and human burials from Archaic or pre-pottery periods. The upper ceramic bearing deposits are related to Hohokam culture. Early Hohokam ceramics from the cave are indistinguishable from contemporary ceramics in the Gila and Santa Cruz Basins, however, later Hohokam artifacts differ. The uppermost levels contain ceramics and other artifacts typical of historic occupation from about A.D. 1700 to the mid–20th century.

The unassociated funerary objects listed above from Ventana Cave were all derived from burials in the ceramic–bearing layers. According to Dr. Haury (1975), the burials from these deposits are believed to date to the period from A.D. 1000 to 1400.

In 1942, cultural items were removed from site AA:14:7(ASM) in the Coyote Mountains of the Tohono O'odham Indian Reservation, Pima County, AZ. The objects were collected from the surface of two graves by Emil Haury while conducting a survey of the Tohono O'odham Indian Reservation. The 46 unassociated funerary objects are 8 decorated wooden sticks and 38 stone projectile points.

Based on the condition and characteristics of these objects and other objects which were present, but not collected, the graves date to between A.D. 1850 to 1942.

In 1965, a cultural item was removed from the San Xavier Bridge site AZ BB:13:14(ASM), on the San Xavier Indian Reservation, Pima County, AZ, by the Arizona State Museum under the direction of Thomas Hemmings. The object was associated with a burial that was exposed by erosion of the bank of the Santa Cruz River. The human remains were repatriated to the Tohono O'odham Nation in 1987. The one unassociated funerary object, which was later found in the museum, is a stone pestle.

Stratigraphy, radiocarbon dates, and attributes of the ceramic assemblage at the San Xavier Bridge site indicate occupation during the Tanque Verde phase of the Classic period of the Hohokam Archaeological tradition, approximately A.D. 1150–1300.

From 1965 to 1966, a cultural item was removed from the Punta de Agua site, AZ BB:13:43(ASM), on the San Xavier Indian Reservation, Pima County, AZ, during legally authorized excavations conducted by the Arizona State Museum under the direction of R. Gwinn Vivian. The one unassociated funerary object is a figurine fragment that had been associated with a cremation.

On the basis of the ceramic types, the cremations at the Punta de Agua site were dated to the transition between the Colonial and Sedentary periods of the

Hohokam Archaeological tradition, approximately A.D. 900–1000.

At an unknown date prior to 1970, cultural items were removed from a site about 30 miles south of Casa Grande, AZ AA:9:— vicinity, on the Tohono O'odham Indian Reservation, Pima County, AZ, by unknown persons. The cultural items were donated to the Arizona State Museum at an unknown date. Records indicate that the cultural items were removed from an ''old Pima grave.'' The six unassociated funerary objects are textile fragments.

Some of the textile fragments are from commercially woven cotton and some are historic Pima weave. This suggests that the objects date to the mid to late 19th century, approximately A.D. 1825–1875.

At an unknown date during the 1950s, a cultural item was removed by an unknown person from the Wihom-ki site, AZ Z:12:— area, on the Tohono O'odham Indian Reservation, Pima County, AZ. The cultural item was later obtained by Julian Hayden, who donated it to the Arizona State Museum in 1984. The sacred object is a carved wooden peg.

Based on the condition and location of the sacred object, it appears to date to the late historic period, approximately A.D. 1880–1960.

In 1941, a cultural item was removed from Ventana Cave AZ Z:12:5(ASM), on the Tohono O'odham Indian Reservation, Pima County, AZ, during legally authorized excavations conducted by the University of Arizona under the direction of Emil Haury. The sacred object was accessioned into the collections of the Arizona State Museum in 1941. The sacred object is a wooden prayer stick.

Excavation records report that several such objects were on the surface of the site or found within surface debris. This establishes a date in the recent historical period, approximately A.D. 1700–1941.

At an unknown date prior to 1969, a cultural item was removed from Ventana Cave, AZ Z:12:5(ASM), on the Tohono O'odham Indian Reservation, Pima County, AZ, by Julian Hayden. Mr. Hayden donated the sacred object to the Arizona State Museum in 1969. The sacred object is a wooden prayer stick.

There is no specific information regarding the archeological context. Records from the 1941 excavations conducted by Emil Haury reported that several such objects were on the surface of the site or found within surface debris. This establishes a date in the recent historical period, approximately A.D. 1700–1969.

At the time of Spanish entry into southern Arizona in the late 17th century, the lands currently under the jurisdiction of the Tohono O'odham Nation were occupied by O'odham–speaking populations. The same populations have continued to occupy these lands throughout the historic period. O'odham people also identify themselves with the archeologically–defined Hohokam Archaeological tradition. Cultural continuity between the prehistoric occupants of the region and present day O'odham, Pee–Posh, and Puebloan peoples is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, ritual practices, and oral traditions. The descendants of the O'odham, Pee–Posh, and Puebloan peoples of the areas described above are members of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Officials of the Bureau of Indian Affairs and Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the 3,134 unassociated funerary objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of an Native American individual. Officials of the Bureau of Indian Affairs and Arizona State Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(C), the three sacred objects described above are specific ceremonial objects needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present–day adherents. Lastly, officials of the Bureau of Indian Affairs and Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and sacred objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects and/or sacred objects should contact John Madsen, Repatriation Coordinator, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 621–4795, before April 7, 2008. Repatriation of the unassociated funerary objects and sacred objects to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Arizona State Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: February 13, 2008

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–4337 Filed 3–5–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items: University of Colorado Museum, Boulder, CO

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items in the possession of the University of Colorado Museum, Boulder, CO, that meets the definition of ''unassociated funerary objects'' under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility

of the museum, institution, or Federal agency that has control of the cultural items. The National Park Service is not responsible for the determinations in this notice.

Between 1954 and 1990, human remains were removed from three sites near Yellow Jacket Pueblo (5MT1, 5MT2, and 5MT3), Montezuma County, CO, during legally conducted excavations from private land by Dr. Joe Ben Wheat and students participating in University of Colorado Museum sponsored archeological field schools. The excavated items were physically transferred to the museum at the end of each field season. The human remains and associated funerary objects were described in a Notice of Inventory Completion published in the **Federal Register** of Monday, September 11, 2006 (FR Doc E6–14933, pages 53470–53473). The human remains and associated funerary objects were repatriated. After repatriation, 13 cultural items were found in collection storage. The 13 cultural items are 2 ceramic vessels and 11 lots of sherds. The 11 lots of sherds share catalog numbers with reconstructed vessels previously repatriated.

Previously identified unassociated funerary objects from the Yellow Jacket Pueblo were also described in a Notice of Intent to Repatriate published in the **Federal Register** of Thursday, March 15, 2007 (FR Doc E7–4733, pages 12192–12193). The cultural items from the notice of March 15, 2007, have been repatriated. An additional 28 cultural items from the Yellow Jacket Pueblo site were found during a collections management project that culminated in January 2008.

Three cultural items found in collections are reasonably believed to have been removed from the Yellow Jacket Pueblo site (5MT5), Montezuma County, CO, by Horace (Hod) Benjamin Stevenson. Mr. Stevenson donated the cultural items to the University of Colorado Museum in May 1954. The three cultural items are two ceramic vessels and one awl.

The remaining 25 cultural items found in collections are reasonably believed to have been removed from the Yellow Jacket Pueblo site (5MT5), Montezuma County, CO by Gervis W. Hoofnagle, on an unknown date, prior to 1959 and most likely in the 1930s. The University of Colorado Museum purchased some cultural items from Mr. Hoofnagle's widow in 1961 and she donated additional cultural items to the museum in 1971. The 25 cultural items are 19 ceramic vessels some of which have black–on–white designs; 1 shell pendant; 1 axe, 1 lot of bone tubes; and 3 lots of bone tools.

The three habitation sites (5MT1, 5MT2, and 5MT3), identified on the National Register of Historic Places as the Joe Ben Wheat Site Complex, are at the head of Yellow Jacket Canyon to the west of Tatum Draw and southwest of the very large archeological site, Yellow Jacket Pueblo (5MT5). The Yellow Jacket burials were predominantly single interments, appearing in a wide variety of locations, including abandoned rooms and kivas, storage pits, subfloor burial pits, extramural burial pits, and middens. The habitation sites were occupied at various times during the Basketmaker III, Pueblo II, and Pueblo III periods, approximately A.D. 550–1250, with a temporary abandonment during the Pueblo I period, approximately A.D. 750–900. Based on the general continuity in the material culture and the architecture of these sites, it appears that the community that lived in this area had long–standing ties to the region and returned to sites even after migrations away from the locale that lasted more than one hundred years. However, by the late 13th century, both the Yellow Jacket sites and the nearby Mesa Verde region showed no evidence of human habitation. The sites are not used again until the 1920s when the locale was homesteaded and farmed. The archeological evidence supports identification with Basketmaker and later Pueblo (Hisatsinom, Ancestral Puebloan, or Anasazi) cultures, which prehistorically occupied southwestern Colorado. Both Basketmaker and Pueblo occupations are represented in the archeology at the Yellow Jacket site. Archeologists have noted in the scientific literature the striking similarity between the technology and style of material culture of 13th century archeological sites in southwestern Colorado and the material culture remains of 14th century Puebloan sites in Arizona and New Mexico. Oral–tradition evidence, which consists of migration stories, clan histories, and origin stories, was provided by representatives of the Hopi Tribe of Arizona; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Ysleta del Sur, New Mexico; Pueblo of Zia, New Mexico; and Zuni Tribe of the Zuni Reservation, New Mexico. Folkloric evidence in the form of songs was provided by tribal representatives of the Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Nambe, New Mexico; and Pueblo of San Ildefonso, New Mexico. Tribal representatives of the Pueblo of Acoma, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of San Ildefonso, New Mexico; and Pueblo of Taos, New Mexico provided linguistic evidence rooted in place names. Pueblo of Cochiti, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of San Ildefonso, New Mexico; and Pueblo of Santa Clara, New Mexico provided archeological evidence based on architecture and material culture of their shared relationship. Archeological, historical and linguistic evidence presently points to Navajo migration to the Yellow Jacket and Monument Ruin area after A.D. 1300. During consultation, the Navajo Nation, Arizona, New Mexico & Utah emphasized their long presence in the Four Corners and their origin in this area, but there is not a preponderance of the evidence to support Navajo cultural affiliation. Based on a preponderance of evidence, including oral tradition, folklore, linguistic, geographic, archeology, historical, and scientific studies, cultural affiliation can be traced between the cultural items and modern Puebloan peoples. Modern Puebloan peoples are members of the Hopi Tribe of Arizona; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

Officials of the University of Colorado Museum have determined that, pursuant to 25 U.S.C. 3001 (3)(B), the 41 cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of

the death rite or ceremony. Officials of the University of Colorado Museum also have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Hopi Tribe of Arizona; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the unassociated funerary objects should contact Steve Lekson, Curator of Anthropology, University of Colorado Museum, Henderson Building, Campus Box 218, Boulder, CO 80309–0218, telephone (303) 492–6671, before April 7, 2008. Repatriation of the unassociated funerary objects to the Hopi Tribe of Arizona; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

University of Colorado Museum is responsible for notifying the Hopi Tribe of Arizona; Navajo Nation Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (formerly the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Santo Domingo, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah, Ysleta del Sur Pueblo of Texas; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: February 7, 2008.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–4327 Filed 3–5–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Department of Anthropology and Ethnic Studies, University of Nevada Las Vegas, Las Vegas, NV

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in possession of the Department of Anthropology and Ethnic Studies, University of Nevada Las Vegas, Las Vegas, NV. The human remains and associated funerary object were removed from Washoe County, NV.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the University of Nevada Las Vegas Department of Anthropology and Ethnic Studies professional staff in consultation with representatives of Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada.

At an unknown date, human remains representing a minimum of one individual were removed from a dry lake shore near Winnemuca in Washoe County, NV (recorded as AHUR 0123). No information is available regarding the circumstances surrounding their removal. No known individual was identified. The eight associated funerary objects are two stone scrapers, one basket fragment, two faunal bones, one large stone slab, and two turquoise fragments.

The human remains are believed to be pre–contact or early post–contact Native American, based on the associated funerary objects.

On April 11, 1983, human remains representing a minimum of one individual were removed from an area two miles north of Nixon, near milepost 20 of State Route 447, near Pyramid Lake, Washoe County, NV (recorded as FHUR 0002). Records indicate that the human remains were discovered by hikers on the east side of Pyramid Lake, on the west slope of a ridge behind a large boulder. The burial was completely covered by small stones, but the skull and smaller fragments were visible to the hikers through a crevice. The human remains were subsequently recovered by the Washoe County Coroner. No known individual was identified. The four associated funerary objects are one machine–printed cloth, one metal pill box, one lot of buttons, and one twisted plant fiber.

The Washoe County Coroner reported that the human remains appeared to have been wrapped in multiple layers of cloth and canvas, and the body was placed in a flexed position with the knees pulled up to the chest. Based on skeletal attributes, this individual was identified as Native American. Analyses of the buttons indicate that they date between the late 1800s and early 1900s. The location of the human remains, as well as the crevice style of burial, indicates that the individual was most likely a member of a Great Basin Native American tribe.

On April 18, 1982, human remains representing a minimum of one individual were removed from the shore of Pyramid Lake, in Washoe County, NV (recorded as FHUR 0003). Records indicate that this crania was found by children approximately 100 yards inland from the shore of the lake, in an area that had been recently exposed due to decreasing water levels. The Washoe County Sheriff's Department subsequently conducted additional excavations in the area, but failed to recover any additional skeletal materials or artifacts. The human remains were sent to the University of Nevada Las

Vegas for further analysis. No known individual was identified. No associated funerary objects are present.

Analysis determined that the human remains are that of a pre–contact or early historic Native American inhabitant of the Great Basin area.

Archeological evidence suggests that the areas where the human remains were found were occupied by Shoshone/Paiute groups in pre–contact and historic times. Oral history evidence presented by the representatives of the Pyramid Lake Paiute further suggests that the areas were occupied by the Pyramid Lake Paiute during these time periods. Based on these lines of evidence, the human remains and associated funerary objects are considered to be Native American and culturally affiliated with the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada.

Officials of the Department of Anthropology and Ethnic Studies, University of Nevada Las Vegas have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of three individuals of Native American ancestry. Officials of the Department of Anthropology and Ethnic Studies, University of Nevada Las Vegas also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the twelve objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Department of Anthropology and Ethnic Studies, University of Nevada Las Vegas have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the the human remains and associated funerary objects should contact Dr. Karen Harry, Department of Anthropology & Ethnic Study, University of Nevada Las Vegas, 4505 Maryland Parkway, Box 455003, Las Vegas, NV 89154–5003, telephone (702) 895–2534, before April 7, 2008. Repatriation of the human remains and associated funerary objects to the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada may proceed after that date if no additional claimants come forward.

The Department of Anthropology and Ethnic Studies, University of Nevada Las Vegas is responsible for notifying the Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada that this notice has been published.

Dated: January 30, 2008.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–4329 Filed 3–5–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Hastings Museum of Natural and Cultural History, Hastings, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of Hastings Museum of Natural and Cultural History (Hastings Museum), Hastings, NE. The human remains and associated funerary objects were removed from Howard, Merrick, Nance, Platte, and Webster Counties, NE.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Hastings Museum of Natural and Cultural History professional staff in consultation with representatives of the Crow Tribe of Montana; Omaha Tribe of Nebraska; Otoe–Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Sac & Fox Nation of Missouri in Kansas and Nebraska; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

During the summers of 1924 and 1925, human remains representing a minimum of 10 individuals were removed from the Pike Pawnee Village (25WT1) in Webster County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking, museum founder, and cataloged between 1926 and 1931 (02983, 03046, 03154, 03160, 03177, 03224, 03225, 03255). No known individuals were identified. The 17 associated funerary objects are 1 saw blade, 1 metal button, 14 lead bullets, and 1 tomahawk pipe bowl (03157, 03224, 03255).

On a date prior to 1926, human remains representing a minimum of six individuals were removed from the Pike Pawnee Village (25WT1) in Webster County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking and cataloged between 1926 and 1931 (02438, 02984, 03228, 04792). No known individuals were identified. The 31 associated funerary objects include 1 brass bell, 2 copper bracelets, and 28 beads (02985, 02986, 2987).

On April 20, 1925, human remains representing a minimum of three individuals were removed from the Pike Pawnee Village (25WT1) in Webster County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking, A.T. Hill, and J.E. Wallace and cataloged between 1926 and 1931 (03110, 03121). No known individuals were identified. No associated funerary objects are present.

At unknown times, human remains representing a minimum of three individuals were removed from the Pike Pawnee Village (25WT1) in Webster County, NE. One individual was donated to the Hastings Museum by an unnamed donor and cataloged between 1926 and 1931 (10362). The second individual was donated to the Hastings Museum by David Mowry and cataloged in 1936 (14693). The third individual was donated to the Hastings Museum by Julia Green Bell and cataloged in 1945 (25347). No known individuals were identified. No associated funerary objects are present.

The Pike Pawnee Village site (25WT1) is also known as the Hill Site, Hill Farm, and Superior 1. The site is located between Red Cloud and Guide Rock on the south bank of the Republican River. The site is known to be a village sporadically occupied by the Kitkehahki (Republican) band of the Pawnee from A.D. 1700 to A.D. 1830.

At an unknown date, human remains representing a minimum of one individual were removed from the Samms Site (25WT2), also known as the Thorne Site, near Bladen in Webster County, NE. The human remains were given to the Hastings Museum by J.C. Samms and cataloged into the collection between 1926 and 1931 (10208). No known individual was identified. No associated funerary objects are present.

Based on research at the Nebraska State Historical Society, it was found

that J.C. Samms and A.M. Brooking had excavated at the Samms Site prior to March 1932. The site has been culturally identified as a Lower Loup village.

On an unknown date, human remains representing a minimum of one individual were removed from the Phil Cuba farm (25NC4) in Nance County, NE. The human remains were purchased from Phil Cuba by the Hastings Museum in 1933 and cataloged that same year (11222). No known individual was identified. The 14 associated funerary objects are 9 metal bracelets, 1 wooden bowl, 1 metal frying pan, 1 metal scissors, 1 metal and wood knife, and 1 metal bucket (11223, 11224).

On an unknown date, human remains representing a minimum of three individuals were removed from a grave at the Phil Cuba farm (25NC4) in Nance County, NE. The human remains were purchased from Phil Cuba by the Hastings Museum in 1936 and cataloged that same year (15465, 15466). No known individuals were identified. No associated funerary objects are present.

A.T. Hill and George Lamb excavated at this site in 1936, which became known as the Cuba Site (25NC4) for the Nebraska State Historical Society. The site contains an earthlodge village and burials covering 10 to 20 acres. The site is considered consistent with the Lower Loup Phase.

On an unknown date, human remains representing a minimum of two individuals were removed from the Kent village at the Burkett Site (25NC1) near Genoa, in Nance County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking and cataloged between 1926 and 1931 (03481). No known individuals were identified. No associated funerary objects are present.

The Burkett Site is located four miles southwest of Genoa on land once owned by F. Burkett. A large village is located on this site and is known for the vast amount of pottery that has attracted many pot hunters. Waldo Wedel identified the Burkett Site as the site once reported by F.V. Hayden in an annual report of the Smithsonian Institute in 1867, which had a vast amount of pottery fragments in the area that Mr. Hayden attributed to the early Pawnee. The site is now known to contain cache pits, house sites, and burials. The Nebraska State Historical Society has identified the Burkett Site as Lower Loup Phase.

On an unknown date, human remains representing a minimum of one individual were removed from the Horse Creek Site (25NC2) near Fullerton, Nance County, NE. The human remains were donated to the Hastings Museum by museum founder, A.M. Brooking and cataloged between 1926 and 1931 (03200). No known individual was identified. No associated funerary objects are present.

Research reveals that there is a site known as Horse Creek that is southwest of Fullerton in Nance County, NE. This site is culturally affiliated with the Grand and Republican bands of the Pawnee. Museum catalog records indicate that the above human remains were collected southwest of Fullerton in approximately the same location as the Horse Creek site. Original catalog records indicated that this was ''a Mormon boy killed by Indians on September 16, 1849.'' However, the morphological report indicates that this is a female of Native American descent. Based on the catalog records, information on the Horse Creek site, and morphology report, the museum officials have reasonably determined that the human remains are culturally affiliated with the Pawnee.

On November 2, 1926, human remains representing a minimum of two individuals were removed from graves at a Skidi village near Palmer, Merrick County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking and George Debord and cataloged between 1926 and 1931 (01797). No known individuals were identified. No associated funerary objects are present.

On August 19, 1923, human remains representing a minimum of one individual were removed from a grave at a Skidi Site near Palmer, Merrick County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking and A.T. Hill and cataloged between 1926 and 1931 (02901). No known individual was identified. The seven associated funerary objects are five pieces of woven textile, one metal bell, and one coiled wire ring (02920).

On August 10, 1933, human remains representing a minimum of two individuals were removed from a grave at a Skidi village near Palmer, Merrick County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking, Bert Oberlies, and George Debord, and cataloged in 1933 (11216). No known individuals were identified. The 1,014 associated funerary objects include 2 metal bracelets, 4 pieces of metal spoons, and 1,008 glass beads (11216).

At an unknown date, human remains representing a minimum of 14 individuals were removed from graves at a Skidi site near Palmer, Merrick County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking and cataloged between 1926 and 1931 (02663, 03010, 03052, 03202, 03261, 03262, 03267, 03938, 03940, 04460, 07091, 08052). No known individuals were identified. The one associated funerary object is a catlinite pipe (03011).

At an unknown date, human remains representing a minimum of one individual were removed from a grave at a Skidi site near Palmer, Merrick County, NE. The human remains were donated to the Hastings Museum by Ora White and cataloged between 1926 and 1931 (02915). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed from a grave at a Skidi site near Palmer, Merrick County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking and A.T. Hill and cataloged between 1926 and 1931 (03359). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of two individuals were removed from graves at a Skidi site near Palmer, Merrick County, NE. The human remains were donated to the Hastings Museum by H. Goering and cataloged between 1926 and 1931 (04741). No known individuals were identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of one individual were removed from a grave at a Skidi site near Palmer, Merrick County, NE. The human remains were purchased by the Hastings Museum from Vic Johnson and cataloged between 1926 and 1931 (06452). No known individual was identified. No associated funerary objects are present.

At an unknown date, human remains representing a minimum of two individuals were removed from graves at a Skidi site near Palmer, Merrick County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking and George Debord and cataloged between 1926 and 1931 (08060, 09011). No known individuals were identified. The one associated funerary object is a set of rings (08060).

At an unknown date, human remains representing a minimum of one individual were removed from a grave at a Skidi site near Palmer, NE. The human remains were purchased by the Hastings Museum from F.G. Dankert and cataloged between 1933 (11215). No

known individual was identified. No associated funerary objects are present.

Research conducted at the Nebraska State Historical Society identifies at least 15 sites in the area around Palmer. One site is known as the Palmer Village (25HW1), which is a well known site that was occupied by the Skidi band of the Pawnee from at least A.D. 1804 to A.D. 1836, and was observed and recorded by a number of explorers to the area. Museum officials have been able to document Mr. Brooking and Mr. Hill as having conducted excavations at the Palmer Village. Waldo Wedel conducted an official survey of the Palmer Village on June 13, 1936 for the Nebraska State Historical Society. John Johnson owned the land at the time of the survey and allowed some work. It is likely that the some of the village spread into and resides on land once owned by H. Goering whose land is adjacent to Mr. Johnson's land. The site is designated as an historic Skidi Pawnee earthlodge village.

Museum officials have determined, based on museum records and evidence of donors associated with the site, that the above human remains and associated funerary objects are from sites associated with a Skidi village, possibly the Palmer Village, and are culturally affiliated with the Pawnee.

On an unknown date, human remains representing a minimum of one individual were removed from a grave near Cushing, Howard County, NE. The human remains were donated to the Hastings Museum by Robert Merchant and cataloged in 1960 (29365). No known individual was identified. No associated funerary objects are present.

There are no known sites attributed to Cushing, NE. However, there are numerous sites attributed to the Palmer area, which is 10 miles to the southeast of Cushing. The Palmer Site (25HW1) is located northwest of the town of Palmer, making it also in the vicinity of Cushing. Based on this information, morphology report, and geographic region of Pawnee occupation, museum officials have determined that the human remains probably came from the Palmer site and are highly likely to be culturally affiliated with the Pawnee.

On an unknown date, human remains representing a minimum of five individuals were removed from the Hanna Larson Site (25PT1) in Platte County, NE. The human remains were excavated from the yard of Wm. Christman and donated by Mr. Christman to the Hastings Museum in 1944 (24733). No known individuals were identified. No associated funerary objects are present.

Nebraska State Historical Society and museum records are consistent with information on the site known as the Hanna Larson Site. The site was occupied form A.D. 1650 to A.D. 1750 and is culturally identified with the Lower Loup Focus of the Pahuk Aspect of the late Ceramic Period.

The Lower Loup Phase sites are located in areas also associated with historic Pawnee sites. The Lower Loup material culture suggests that they are ancestors of the Pawnee. Descendants of the Pawnee are members of the Pawnee Nation of Oklahoma.

According to museum records, the human remains were originally cataloged as a complete or nearly complete skeleton for each of these individuals (02983, 03177, 03224, 03255, 01797, 06452, 03202, 11216, 24733). However, during inventory review in the 1990s, only cranial and partial post cranial remains were found with the accession numbers. Also during inventory review, the museum identified a number of commingled human remains that had been in an exhibit in the late 1930s or early 1940s, which represented human remains taken from ossuaries. When the exhibit closed, unnumbered human remains were mingled together. Officials of the Hastings Museum reasonably believe that some of the commingled remains are part of the individuals described above. An additional site that is reasonably believed to have commingled human remains from this exhibit are described in a companion notice.

Officials of the Hastings Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 63 individuals of Native American ancestry. Officials of the Hastings Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 1,085 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Hastings Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Pawnee Nation of Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Teresa Kreutzer–Hodson, Hastings Museum of Natural and Cultural History, 1330 N Burlington, PO Box 1286, Hastings, NE 68902, telephone (402) 461–2399, before April 7, 2008. Repatriation of the human remains and associated funerary objects to the Pawnee Nation of Oklahoma may proceed after that date if no additional claimants come forward.

The Hastings Museum is responsible for notifying the Crow Tribe of Montana; Omaha Tribe of Nebraska; Otoe–Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Sac & Fox Nation of Missouri in Kansas and Nebraska; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma that this notice has been published

Dated: January 30, 2008.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–4323 Filed 3–5–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Hastings Museum of Natural and Cultural History, Hastings, NE

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of Hastings Museum of Natural and Cultural History, Hastings, NE. The human remains and associated funerary objects were removed from the Franklin, Harlan, and Webster Counties, NE.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Hastings Museum of Natural and Cultural History professional staff in consultation with representatives of the Crow Tribe of Montana; Omaha Tribe of Nebraska; Otoe–Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma;

Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Sac & Fox Nation of Missouri in Kansas and Nebraska; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

In June 1926, human remains representing a minimum of one individual were removed from the Marshall Ossuary (25HN1) in Harlan County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking, the museum founder (03635). No known individual was identified. The 2,339 associated funerary objects are 2,339 shell beads of various sizes (03636).

The Marshall Ossuary is located on the Republican River and is believed to have been used by the people of the Plains Woodland or Central Plains Tradition.

On April 1, 1938, human remains representing a minimum of one individual were removed from the Wentworth site in Franklin County, NE. The human remains were donated to the museum by Les Goldsbury and cataloged in 1938 (18072). No known individual was identified. No associated funerary objects are present.

Archeological evidence indicates that the Plains Woodland, Central Plains Tradition, and Pawnee people have sporadically lived and hunted in what is now Franklin County.

On unknown date, human remains representing a minimum of two individuals were removed from a grave 2 miles southwest of Franklin in Franklin County, NE. The human remains were given to the Hastings Museum by Les Goldsbury and cataloged in 1936 (16019). No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing a minimum of four individuals were removed from an unknown site around Bloomington, Franklin County, NE. The human remains were donated to the Hastings Museum by Les Goldsbury, Garret Fritzson and A.M. Brooking, and cataloged in 1936 (16024). No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing a minimum of two individuals were removed from an ossuary near Guide Rock, Webster County, NE. The human remains were donated to the Hastings Museum by A.M. Brooking and cataloged in 1934 (12620). No known individuals were identified. No associated funerary objects are present.

In 1932, human remains representing a minimum of three individuals were removed from unknown sites near Guide Rock in Webster County, NE. The human remains were donated to the Hastings Museum by J.C. Samms and A.T. Hill and cataloged in 1934 (12645, 12646, 12647). No known individuals were identified. No associated funerary objects are present.

On an unknown date, human remains representing a minimum of two individuals were removed from one or more ossuaries near Guide Rock, Webster County, NE. The human remains were donated to the Hastings Museum by unknown donors and cataloged between 1934 and 1935 (14015, 13120). No known individuals were identified. No associated funerary objects are present.

According to museum records, the human remains from 2 miles southwest of Franklin in Franklin County were originally cataloged as a complete or nearly complete skeleton for each of the individuals (16019). However, during inventory review in the 1990s, only cranial and partial post cranial remains were found with the accession numbers. Also during inventory review, the museum identified a number of commingled human remains that had been in an exhibit in the late 1930s or early 1940s, which represented human remains taken from ossuaries. When the exhibit closed, unnumbered human remains were mingled together. Officials of the Hastings Museum reasonably believe that some of the commingled remains are part of the individuals described above. Additional sites with commingled human remains are listed in a companion notice.

Franklin and Webster Counties are spanned by the Republican River and have rich river bottoms conducive to agriculture. The Plains Woodland, Central Plains Tradition, and Pawnee people have sporadically lived and hunted in this region for over 1,000 years. There are several known village sites, burial mounds, and ossuaries located within the counties that document all three cultural occupations of this area. Based on museum records, geographic region, documented sites, and morphology reports, museum officials have determined that the human remains are likely associated with Plains Woodland, Central Plains Tradition or Pawnee.

Pawnee oral tradition states that the Central Plains Tradition people are ancestors to the Arikara and Pawnee, and possibly the Wichita. According to Pawnee oral history the Plains Woodlands people are ancestor to the Pawnee, Mandan, Arikara, Hidatsa, and Crow. Oral history information has some of the people of Mill Creek staying behind and becoming part of the Central Plains Tradition based on common oral traditions through origin and corn stories.

Museum officials have determined based on museum records, geographic location, Pawnee oral tradition, and anthropological research that the Central Plains Tradition people are ancestors to the Arikara and Pawnee, and possibly the Wichita. In addition, museum officials have determined based on museum records, geographic location and oral tradition that the Plains Woodland people are ancestors of the Arikara, Crow, Hidatsa, Mandan, and Pawnee. The Arikara, Pawnee, and Wichita have entered into an agreement that human remains and funerary objects located between the Missouri River and the Smokey Hill River shall be claimed by the Pawnee Nation of Oklahoma. The Hidatsa have also agreed that the Pawnee shall make the claim for people and items affiliated with the Plains Woodland from Nebraska.

Officials of the Hastings Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 15 individuals of Native American ancestry. Officials of the Hastings Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 2,339 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Hastings Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Crow Tribe of Montana; Pawnee Nation of Oklahoma; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Teresa Kreutzer–Hodson, Hastings Museum of Natural and Cultural History, 1330 N Burlington, PO Box 1286, Hastings, NE 68902, telephone (402) 461–2399, before April 7, 2008. Repatriation of the human remains and associated funerary objects to the Pawnee Nation of Oklahoma may proceed after that date if no additional claimants come forward.

The Hastings Museum of Natural and Cultural History is responsible for notifying the Crow Tribe of Montana; Omaha Tribe of Nebraska; Otoe–Missouria Tribe of Indians, Oklahoma; Pawnee Nation of Oklahoma; Ponca Tribe of Indians of Oklahoma; Ponca Tribe of Nebraska; Sac & Fox Nation of Missouri in Kansas and Nebraska; Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota; and Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma that this notice has been published.

Dated: January 30, 2008.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–4325 Filed 3–5–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: Texas Department of Transportation, Austin, TX

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the possession of the Texas Department of Transportation, Austin, TX. The human remains and associated funerary objects were removed from Titus County, TX.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by the professional archeological staff of the Texas Department of Transportation in consultation with representatives of the Caddo Nation of Oklahoma.

In 1973, human remains representing a minimum of one individual were removed from the Alex Justiss Site, 41TT13, in Titus County, TX. No known individual was identified. The 94 associated funerary objects are 39 ceramic sherds, 1 Talco arrow point, 2 untyped arrow points, 1 core, 1 grooved hematitic sandstone, 48 pieces of lithic debitage, and 2 organic matter (nutshells).

In 1975, human remains representing a minimum of two individuals were removed from the Alex Justiss Site, 41TT13, in Titus County, TX. No known individuals were identified. The 251 associated funerary objects are 73 ceramic sherds, 4 Talco arrow points, 3 Maud arrow points, 1 Alba arrow point, 1 Perdiz arrow point, 5 Gary dart points, 1 Yarbrough dart point, 1 gouge, 1 pitted stone, 2 ground stones, 1 hammerstone, 1 end scraper, 6 bifaces, 4 cores, and 147 pieces of lithic debitage.

In 2001, human remains representing a minimum of 18 individuals were removed from the Alex Justiss Site, 41TT13, in Titus County, TX. No known individuals were identified. The 1,089 associated funerary objects are 14 ceramic vessels (ceramic vessels include 6 jars, 5 bottles, and 3 carinated bowls); 313 ceramic sherds; 1 pipe stem; 70 Talco arrow points; 1 Bassett arrow point; 1 Harrell arrow point; 1 Perdiz arrow point; 3 Washita arrow points; 2 untyped arrow points; 1 celt; 4 Gary dart points; 6 untyped dart point and fragments; 3 groundstones; 1 hammerstone; 4 cores; 529 pieces of lithic debitage; 73 non-human bones; 1 snail shell; 43 soil samples; and 18 carbon samples.

In 1959, the Alex Justiss Site, 41TT13, was identified by a local collector, Edward German, when a firebreak on the property of Alex Justiss exposed a prehistoric burial. There is evidence of earlier occupation at site 41TT13 during the Late Archaic and Late Caddo periods. In 1973, plans were made to widen SH 49 between FM 144 and FM 1735, and test excavations by the Texas Department of Transportation confirmed the presence of a Titus phase Caddo cemetery on the south side of the highway. The site was determined eligible for listing in the National Register of Historic Places and data recovery excavations were designed to mitigate the effects of the construction on the site. These excavations were conducted in 1975, but SH 49 was not widened at that time.

In 2000, the plan to widen SH 49 was re–evaluated. Archeological avoidance was not feasible and determined that the earlier excavation did not meet current archeological standards. In consultations with the Caddo Nation of Oklahoma it was determined that the portion of the Caddo cemetery within the right of way of SH 49 was to be re–excavated. These excavations took place in 2001 and additional human remains were removed from the site. The later development of the Caddo Cemetery, and 19th and 20th century's historic activities disturbed and mixed the earlier occupation artifacts into the burial fill and surrounding soil. As a result it is impossible to determine if excavated artifacts such as debitage, sherds, and broken tools were intentional funerary objects or accidentally incorporated into the Caddo Cemetery complex. However, based on the preponderance of the evidence, officials of the Texas Department of Transportation reasonably believe the artifacts are associated funerary objects.

Ceramic types represented in the burial assemblage include Wilder Engraved, Bullard Brushed, Pease Brushed–Incised, La Rue Neck Banded, Taylor Engraved, Ripley Engraved, and Keno Trailed. The types of decorated ceramics represented in the ceramic assemblage and the abundance of Talco arrow points indicate that the cemetery was used by a Caddo group during the Titus phase (A.D. 1400–1680). Texas Department of Transportation has determined that based upon the lithic and ceramic assemblages that the Alex Justiss site was occupied by a Caddo group. Descendants of the Caddo are members of the Caddo Nation of Oklahoma.

Officials of the Texas Department of Transportation have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 21 individuals of Native American ancestry. Officials of the Texas Department of Transportation also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 1,434 objects described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Texas Department of Transportation have determined, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Caddo Nation of Oklahoma.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact Scott Pletka, Ph.D., Supervisor, Archeological Studies Program, Texas Department of Transportation, 125 E. 11th Street, Austin, TX 78701–2483, telephone (512) 416–2631, before April 7, 2008. Repatriation of the human remains and associated funerary objects to the Caddo Nation of Oklahoma may proceed after that date if no additional claimants come forward.

The Texas Department of Transportation is responsible for notifying the Caddo Nation of Oklahoma that this notice has been published.

Dated: January 30, 2008.

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–4320 Filed 3–5–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion: U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and Arizona State Museum, University of Arizona, Tucson, AZ

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects in the control of the U.S. Department of the Interior, Bureau of Indian Affairs, Washington, DC, and in the physical custody of the Arizona State Museum, University of Arizona, Tucson, AZ. The human remains and associated funerary objects were removed from sites within the boundaries of the Gila Bend Indian Reservation, San Xavier Indian Reservation, and Tohono O'odham Indian Reservation in Maricopa, Pima, and Pinal Counties, AZ.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003 (d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

A detailed assessment of the human remains was made by Arizona State Museum professional staff in consultation with representatives of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico. The Tohono O'odham Nation of Arizona is acting on behalf of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona, Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; and themselves.

In 1964, human remains representing a minimum of 14 individuals were removed from the Fortified Hill Site (AZ T:13:8[ASM]), Maricopa County, AZ, during legally authorized excavations conducted by the University of Arizona and Arizona State Museum under the direction of William Wasley. The human remains were accessioned into the collections of the Arizona State Museum in 1964. No known individuals were identified. The 734 associated funerary objects are 5 animal bone awls, 20 animal bone ornaments, 2 basketry fragments, 516 beads, 78 lots of botanical material, 12 ceramic bowls, 10 ceramic jars, 1 ceramic scoop, 3 crystals, 1 mineral object, 2 pendants, 63 projectiles points, 1 piece of unidentified raw material, 4 shell bracelets, 3 shell fragments, 7 shell needle fragments, 1 shell pendant, 4 lots of textile fragments, and 1 wood artifact.

The ceramic assemblage at the Fortified Hill site suggests occupation associated with the Tanque Verde phase of the Early Classic period of the Hohokam Archeological tradition. In addition, the sequence of architectural forms is similar to that found at other Tanque Verde phase sites in the Tucson Basin. There are strong similarities in site layout, architecture, and the ceramic assemblage when compared with the early Classic Period site of Cerro Prieto, located at the west end of the Tucson Mountains. These attributes suggest an occupation at AZ T:13:8(ASM) between approximately A.D. 1200–1275. Characteristics of the mortuary program including cremation, placement within a ceramic vessel, and the types of associated objects, are also consistent with the Hohokam Archeological tradition. The human remains are determined to be Native American based on the archeological context.

In 1960 and 1961, human remains representing a minimum of one individual were removed from site AZ T:14:10(ASM), Maricopa County, AZ, during legally authorized excavations conducted by the Arizona State Museum under the direction of William Wasley and Alfred Johnson. The excavations were conducted under contract with the National Park Service as part of the Painted Rocks Reservoir Project. The human remains were accessioned into the collections of the Arizona State Museum in 1961. No known individual was identified. The 11 associated funerary objects are 1 shell bead, 2 ceramic jars, 1 ceramic scoop, 3 shell artifact fragments, and 4 sandal fragments.

The ceramic assemblage indicates that the site was occupied during the Classic period of the Hohokam Archaeological tradition, approximately A.D. 1200–1450. Characteristics of the mortuary program and the types of associated objects identify the human remains as Native American.

In 1960 and 1961, human remains representing a minimum of one individual were removed from the Bartley Site, AZ T:14:11(ASM), Maricopa County, AZ, during legally authorized excavations conducted by the Arizona State Museum under the direction of William Wasley and Alfred Johnson. The excavations were conducted under contract with the National Park Service as part of the Painted Rocks Reservoir Project. The human remains were accessioned into the collections of the Arizona State Museum in 1961. No known individual was identified. The three associated funerary objects are one laevicardium shell, one ceramic bowl fragment, and one ceramic bowl.

The ceramic assemblage indicates that the site was occupied during the Classic period of the Hohokam Archaeological tradition, approximately A.D. 1200–1450. Characteristics of the mortuary program and the types of associated artifacts identify the human remains as Native American.

In 1960 and 1961, human remains representing a minimum of four individuals were removed from site AZ Z:1:11(ASM), Maricopa County, AZ, during legally authorized excavations conducted by the Arizona State Museum under the direction of William Wasley and Alfred Johnson. The excavations were conducted under contract with the National Park Service as part of the Painted Rocks Reservoir Project. The human remains were accessioned into the collections of the Arizona State Museum in 1961. No known individuals were identified. The 538 associated funerary objects are 500 beads, 5 maize kernels, 1 shell, 19 shell fragments, 2 ceramic jars, 2 ceramic bowls, 8 ceramic sherds, and 1 stone vessel fragment.

The ceramic assemblage indicates that the occupation of the site was primarily during the late Classic period of the Hohokam Archaeological tradition, approximately A.D. 1300–1450. Characteristics of the mortuary program and the types of associated objects identify the human remains as Native American.

In 1933, human remains representing a minimum of one individual were removed from Ventana Cave, AZ Z:12:5(ASM), Pima County, AZ, by Norton Allen. Mr. Allen donated the human remains to the Arizona State Museum in 1998. No known individual was identified. No associated funerary objects are present.

In 1941 and 1942, human remains were removed from Ventana Cave, AZ Z:12:5(ASM), Pima County, AZ, during legally authorized excavations conducted by the University of Arizona, under the direction of Emil Haury. The human remains were accessioned into the collections of the Arizona State Museum in 1942. No known individuals were identified. In 1992, the Arizona State Museum repatriated the remains that were originally identified as human, as well as the associated and unassociated funerary objects to the Tohono O'odham Nation of Arizona. The human remains of some individuals listed as being removed were listed as missing in the collections. In 2005, Arizona State Museum curatorial staff examined the animal bone collections from Ventana Cave and discovered isolated human bones from non–burial contexts representing a minimum of 32 individuals. It is possible that some of these isolated human remains belong to individuals whose remains were repatriated in 1992 or to some of the burials currently listed as missing. No known individuals were identified. No associated funerary objects are present.

Ventana Cave is a deeply stratified site with deposits extending from the late Pleistocene to modern times. The deepest layers have fossils from extinct Pleistocene animals. Lower stratigraphic layers contain stone tool fragments characteristic of Folsom culture. There are also deposits that contain artifacts and human burials from Archaic or pre–pottery periods. The upper ceramic bearing deposits are related to Hohokam culture. Early Hohokam ceramics from the cave are indistinguishable from contemporary ceramics in the Gila and Santa Cruz Basins, however, later Hohokam artifacts differ. The uppermost levels contain ceramics and other artifacts typical of historic occupation from about A.D. 1700 to the mid–20th century.

Ventana Cave had human burials from the pre-pottery layers as well as Hohokam layers (Haury, 1975). Pre–pottery burials were found in a stratigraphic level that had been moist at one time. As a result, the bone was much more poorly preserved than the bone found in the ceramic deposits. The human remains that Mr. Allen donated to the Arizona State Museum are consistent in appearance and preservation with the other burials from the Hohokam layers. In addition, the isolated human remains that were found mixed with the animal bone collections are consistent in appearance and preservation with the human remains from the Hohokam layers. The burials from the Hohokam layers are believed to date to the period from A.D. 1000–1400 (Haury, 1975).

At an unknown date between 1938 and 1941, human remains representing a minimum of one individual were removed from the Bahtki site, AZ Z:16:6(ASM), Pima County, AZ, during an archeological survey conducted by F. H. Scantling. The human remains were brought to the Arizona State Museum at an unknown date and were discovered by museum staff in 2005. No known individual was identified. The four associated funerary objects are melted glass beads.

Father Eusebio Kino visited the village of Bahtki in the late 17th century and reported that there were about 200 O'odham-speaking inhabitants. The village was abandoned after a raid in about 1850. Dr. Haury reported the presence of cremated bone and many burned houses (1975). Artifacts included early glazed pottery of indigenous origin, but no European ceramics were found. Dr. Haury also reported the discovery of a Spanish iron lance blade and glass beads dating to the middle of the 19th century. These artifacts are consistent with reports that the village had been abandoned in 1850.

At an unknown date, human remains representing a minimum of two individuals were removed from a location about 9 miles south of Casa Grande, possibly near the village of Chuichui, Pinal County, AZ, by an unknown person. The human remains were donated by A. T. Kilcrease to the Arizona State Museum probably in January 1921. No known individuals were identified. No associated funerary objects are present.

The human remains were given a two letter designation ''PA,'' which refers to ''Papago.'' One set of human remains were described as being those of a ''Papago chief,'' and the other as ''Papago.'' This suggests that the human remains were considered to date to a time after European contact. Cranial features are highly consistent with Native American ancestry. The term ''Papago'' was previously used to refer to the people known today as Tohono O'odham.

At an unknown date, human remains representing a minimum of one individual were removed from an unknown location, AZ AA:1:– vicinity, near Chuichui and the northern border of the Tohono O'odham Indian Reservation, Pinal County, AZ, during construction of a fence. The human remains were donated to the Arizona State Museum in January 1954. No known individual was identified. The one associated funerary object is a ceramic jar in which the cremated human remains had been placed.

Based on the ceramic style, this burial probably dates to the late Colonial to early Sedentary periods of the Hohokam Archaeological tradition, approximately A.D. 850–1000.

In 1927, human remains representing a minimum of three individuals were removed from a cave site, AZ AA:5:– vicinity, in the Jackrabbit Mountains, Pinal County, AZ. The human remains were possibly collected by Byron Cummings. The human remains were brought to the Arizona State Museum at an unknown date prior to August 1953. No known individuals were identified. No associated funerary objects are present.

The archeological context and chronology is unknown. However, Dr. Cummings suggested that the human remains were ''old Pima.'' This suggests that the human remains may date to a time after European contact, possibly A.D. 1700–1900.

In 1973, human remains representing a minimum of one individual were removed from site AZ AA:5:– FN28, Pinal County, AZ, during archeological investigations carried out by the Arizona State Museum under the direction of Mark Raab under contract to the National Park Service. The human remains were accessioned into the collections of the Arizona State Museum in 1973. No known individual was identified. The three associated funerary objects are one modified shell fragment and two whole shells.

Site AZ AA:5:–FN28 was dated to the Classic Period of the Hohokam Archaeological tradition, approximately A.D. 1200–1400, on the basis of ceramic types.

In 1973, human remains representing a minimum of one individual were removed from site AZ AA:5:– FN151, Pinal County, AZ, during archeological investigations carried out by the Arizona State Museum under the direction of Mark Raab under contract to the National Park Service. The human remains were accessioned into the collections of the Arizona State Museum in 1973. No known individual was identified. No associated funerary objects are present.

The burial from FN 151 was assigned to the early Colonial to late Sedentary period of the Hohokam Archaeological

tradition, approximately A.D. 750–1150. The report does not specify the basis of this conclusion, but it is likely that it was determined from the ceramic types. Mortuary treatment (cremation burial) is consistent with this assessment.

In 1973, human remains representing a minimum of two individuals were removed from site AZ AA:5:30(ASM), Pinal County, AZ, during archeological investigations carried out by the Arizona State Museum under the direction of Mark Raab under contract to the National Park Service. The human remains were accessioned into the collections of the Arizona State Museum in 1973. No known individuals were identified. No associated funerary objects are present.

On the basis of the ceramic assemblage, AZ AA:5:30(ASM) was determined to be a multicomponent site with occupation beginning as early as A.D. 300 and extending as late as A.D. 1100. This corresponds with the Early Ceramic period to the Sedentary period of the Hohokam Archaeological tradition. Mortuary treatment (cremation burial) is consistent with this assessment.

In 1973, human remains representing a minimum of three individuals were removed from site AZ AA:5:43(ASM), Pinal County, AZ, during archeological investigations carried out by the Arizona State Museum under the direction of Mark Raab under contract to the National Park Service. The human remains were accessioned into the collections of the Arizona State Museum in 1973. No known individuals were identified. No associated funerary objects are present.

Based on the ceramic assemblage, site AZ AA:5:43(ASM) was dated to the transition between the late Colonial to Early Sedentary periods of the Hohokam Archaeological tradition, approximately A.D. 1000. Mortuary treatment (cremation burial) is consistent with this assessment.

From 1930 to 1932, human remains representing a minimum of one individual were removed from an unknown location southwest of the San Xavier Mission on the San Xavier Indian Reservation, AZ AA:16:– vicinity, Pima County, AZ, by Llewellyn Richards. Ms. Richards donated the human remains to the Arizona State Museum in 1971. No known individual was identified. No associated funerary objects are present.

There is no information regarding the specific archeological context of the discovery. Recorded archeological sites on the San Xavier Indian Reservation represent all periods of the Hohokam Archaeological tradition, approximately A.D. 500 - 1450, as well as protohistoric and historic periods (A.D. 1450 to present). Morphological traits of the cranium are consistent with Native American ancestry.

At an unknown date, human remains representing a minimum of two individuals were removed from an unknown location probably in the vicinity of the San Xavier Mission on the San Xavier Indian Reservation, AZ AA:16:— vicinity, Pima County, AZ. The human remains were obtained by Helen Murphey. Mrs. Murphey's son donated the human remains to the Arizona State Museum in November 1993. No known individuals were identified. The two associated funerary objects are two ceramic pitchers in which the human remains had been placed.

The ceramic types indicate that the cremations date to the Classic period of the Hohokam Archaeological tradition, approximately A.D. 1150–1450.

In 1958, human remains representing a minimum of one individual were removed from site AZ AA:16:11(ASM) on the San Xavier Indian Reservation, Pima County, AZ. The human remains were exposed by an eroding wash and collected by Henry Dobyns. Mr. Dobyns donated the human remains to the Arizona State Museum that same year. No known individual was identified. The one associated funerary object is a ceramic jar in which the human remains had been placed.

Based on the ceramic type, the burial is dated to the late Classic period of the Hohokam Archaeological tradition, approximately A.D. 1300–1450. Mortuary treatment is consistent with this determination.

In 1919, human remains representing a minimum of two individuals were removed from Black Mountain, AZ AA:16:12(ASM) on the San Xavier Indian Reservation, Pima County, AZ, by George Chambers. Mr. Chambers donated the human remains to the Arizona State Museum in 1958. No known individuals were identified. No associated funerary objects are present.

The ceramic assemblage at the Black Mountain site indicates occupation from the Sedentary period of the Hohokam Archaeological tradition to the historic period, approximately A.D. 950–1900. Cranial morphological traits are consistent with Native American ancestry.

In 1970, human remains representing a minimum of one individual were removed from site AZ AA:16:35(ASM) on the San Xavier Indian Reservation, Pima County, AZ. The burial was inadvertently discovered during excavation of a pit by a homeowner. The human remains were removed by James Ayres, who brought them to the Arizona State Museum in February 1970. No known individual was identified. The 195 associated funerary objects are 1 ceramic bowl, 2 animal bone awls, 2 animal leg bones, 1 tortoise bone, 2 antler artifacts, and 187 tubular beads. In 1971, the Arizona State Museum loaned three of the beads to the Nashville Public Schools in Nashville, TN. The beads were returned to the Arizona State Museum in 2005.

The ceramic style dates between A.D. 1475–1675. The disposition of the human remains and associated objects differs from the Christian tradition and this may indicate a date prior to the establishment of the Mission at San Xavier in the early 1700s.

In 1962, human remains representing a minimum of one individual were removed from an unnamed site in the AZ BB:13:— vicinity on the San Xavier Indian Reservation, Pima County, AZ, by Daniel Vavages, who discovered the burial eroding from a wash. Mr. Vavages transferred the human remains to the Arizona State Museum in January 1964. No known individual was identified. The one associated funerary object is a ceramic jar in which the human remains had been placed.

Based on the ceramic type, the burial is dated to the Rincon phase of the Sedentary period of the Hohokam Archaeological tradition, approximately A.D. 900–1150. Mortuary treatment is consistent with this determination.

From 1930 to 1932, human remains representing a minimum of 24 individuals were removed from Martinez Hill Ruin AZ BB:13:3(ASM) on the San Xavier Indian Reservation, Pima County, AZ, during legally authorized excavations conducted by the University of Arizona under the direction of Byron Cummings. The human remains were accessioned into the collections of the Arizona State Museum at an unknown date prior to 1953. No known individuals were identified. The 52 associated funerary objects are 1 awl, 17 beads, 14 ceramic jars, 3 ceramic pitchers, 7 geode fragments, 1 lot of hematite, 1 projectile point, 7 scrapers, and 1 shell necklace.

Architectural forms (platform mounds, adobe room blocks, and compound walls) and ceramic types indicate occupation of the Martinez Hill site during the Tucson phase of the late Classic period of the Hohokam Archaeological tradition, approximately A.D. 1300–1450. Mortuary practices and the types of associated funerary objects are consistent with this determination.

In 1985, human remains were removed from the San Xavier Bridge site, AZ BB:13:14(ASM) on the San

Xavier Indian Reservation, Pima County, AZ, during legally authorized excavations conducted by the Arizona State Museum under the direction of John Ravesloot. The remains originally identified as human were repatriated to the Tohono O'odham Nation in May 1987. Non–funerary project materials were accessioned into the collections of the Arizona State Museum in 1987. In 2005, Arizona State Museum curatorial staff examined the animal bone collections from the San Xavier Bridge site and discovered isolated human bone fragments from non–burial contexts representing a minimum of 45 individuals. No known individuals were identified. No associated funerary objects are present.

Stratigraphy, radiocarbon dates, and attributes of the ceramic assemblage indicate occupation of the San Xavier Bridge site during the Tanque Verde phase of the Classic period of the Hohokam Archaeological tradition, approximately A.D. 1150–1300. Mortuary treatment is consistent with this determination.

In 1965 and 1966, human remains were removed from site AZ BB:13:16(ASM) on the San Xavier Indian Reservation, Pima County, AZ, during excavations carried out prior to construction of Interstate Highway 19 performed by the Arizona State Museum under the supervision of R. Gwinn Vivian, and partly funded by the Arizona Highway Department. In May 1987, remains originally identified as human were repatriated to the Tohono O'odham Nation. In 2005, Arizona State Museum curatorial staff examined the animal bone collections from site AZ BB:13:16(ASM) and discovered isolated cremated human bone fragments from non-burial contexts representing a minimum of six individuals. No known individuals were identified. No associated funerary objects are present.

Based on ceramic types, the cremations from AZ BB:13:16(ASM) were dated to the Rillito phase of the Colonial period or the Rincon phase of the Sedentary period of the Hohokam Archaeological tradition. This suggests a range of occupation from approximately A.D. 800–1100.

In 1965, legally authorized excavations at the Punta de Agua Ranch site, AZ BB:13:18(ASM), on the San Xavier Indian Reservation, Pima County, AZ, were conducted by the Arizona State Museum under the supervision of James Sciscenti. The work was related to construction of Interstate Highway 19 and was funded by the Arizona Highway Department. No human burials were identified at that time. Project materials were accessioned into the collections of the Arizona State Museum in 1965. In 2005, Arizona State Museum curatorial staff examined the animal bone collections from site AZ BB:13:18(ASM) and discovered isolated cremated human bone representing a minimum of one individual. No known individual was identified. No associated funerary objects are present.

Historical documents establish that the ranch was first occupied in 1855 and abandoned between 1874 and 1877. The cremated bone, however, probably dates to the prehistoric occupation of the nearby sites, including AZ BB:13:16(ASM) and AZ BB:13:50(ASM). Since there are no associated ceramics with the bone, the cremation could date to any period during the prehistoric occupation of the area, which extended from the late Colonial through Classic periods of the Hohokam Archaeological tradition, approximately A.D. 800–1450.

In 1965 and 1966, human remains were removed from site AZ BB:13:50(ASM) in Pima County, AZ, during excavations by the Arizona State Museum under the supervision of R. Gwinn Vivian prior to construction of Interstate Highway 19, and were partly funded by the Arizona Highway Department. The human remains were accessioned into the collections of the Arizona State Museum in 1965. The remains originally identified as human were repatriated to the Tohono O'odham Nation in 1987. In 2005, Arizona State Museum curatorial staff examined the animal bone collections from site AZ BB:13:50(ASM) and discovered isolated cremated human bone representing a minimum of two individuals. No known individuals were identified. No associated funerary objects are present.

Based on ceramic types, the cremation burials at site AZ BB:13:50(ASM) were dated to the Classic period of the Hohokam Archaeological tradition, approximately A.D. 1150–1450.

In 1983 and 1984, an archeological survey was conducted at site AZ BB:13:192(ASM) on the San Xavier Indian Reservation in Pima County, AZ, by Cultural and Environmental Systems, as part of the planning process for a proposed residential development that was later abandoned. No human burials were identified at that time. Project materials were accessioned into the collections of the Arizona State Museum in 1987. In 2005, Arizona State Museum curatorial staff examined the animal bone collections from site AZ BB:13:192(ASM) and discovered an isolated cremated human bone representing a minimum of one individual. No known individual was identified. No associated funerary objects are present.

The artifact assemblage indicates occupation from the Snaketown phase of the Pioneer or Early Formative period through the Rincon phase of the Sedentary period of the Hohokam Archaeological tradition, approximately A.D. 650–1150.

At an unknown date, human remains representing a minimum of one individual were removed from a site in the AZ DD:–:– vicinity near Sells on the Tohono O'odham Indian Reservation in Pima County, AZ, by an unknown person. The human remains were brought to the Arizona State Museum prior to August 1953. No known individual was identified. No associated funerary objects are present.

The condition and color of the bone indicates long term burial. Otherwise, there is no information regarding antiquity. Shoveling of a maxillary incisor is consistent with Native American ancestry.

At the time of Spanish entry into southern Arizona in the late 17th century, the lands currently under the jurisdiction of the Tohono O'odham Nation were occupied by O'odham–speaking populations. The same populations have continued to occupy these lands throughout the historic period. O'odham people also identify themselves with the archeologically–defined Hohokam Archaeological tradition. Cultural continuity between the prehistoric occupants of the region and present day O'odham, Pee–Posh, and Puebloan peoples is supported by continuities in settlement pattern, architectural technologies, basketry, textiles, ceramic technology, ritual practices, and oral traditions. Descendants of the occupants of the areas described above are members of the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Officials of the Bureau of Indian Affairs and Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (9–10), the human remains described above represent the physical remains of 155 individuals of Native American ancestry. Officials of the Bureau of Indian Affairs and Arizona State Museum also have determined that, pursuant to 25 U.S.C. 3001 (3)(A), the 1,545 objects described above are reasonably believed to have been placed

with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the Bureau of Indian Affairs and Arizona State Museum have determined that, pursuant to 25 U.S.C. 3001 (2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico.

Representatives of any other Indian tribe that believes itself to be culturally affiliated with the human remains and associated funerary objects should contact John Madsen, Repatriation Coordinator, Arizona State Museum, University of Arizona, Tucson, AZ 85721, telephone (520) 621–4795, before April 7, 2008. Repatriation of the human remains and associated funerary objects to the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico may proceed after that date if no additional claimants come forward.

The Arizona State Museum is responsible for notifying the Ak Chin Indian Community of the Maricopa (Ak Chin) Indian Reservation, Arizona; Gila River Indian Community of the Gila River Indian Reservation, Arizona; Hopi Tribe of Arizona; Salt River Pima–Maricopa Indian Community of the Salt River Reservation, Arizona; Tohono O'odham Nation of Arizona; and Zuni Tribe of the Zuni Reservation, New Mexico that this notice has been published.

Dated: February 13, 2008

Sherry Hutt,

Manager, National NAGPRA Program.

[FR Doc. E8–4336 Filed 3–5–08; 8:45 am]

BILLING CODE 4312–50–S

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities: Extension of a Currently Approved Information Collection With Non-Substantive Changes; Comment Request

ACTION: 60-day notice of information collection under review: Form ETA–9033A, Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska; OMB Control No. 1205–0352.

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 Form ETA 9033A Attestation by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska. 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 at this Web site: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm*.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before May 5, 2008.

ADDRESSES: William L. Carlson, Administrator, Office of Foreign Labor Certification, U.S. Department of Labor, Room C4312, 200 Constitution Ave., NW., Washington, DC 20210; by phone at (202) 693–3010 (this is not a toll-free number); by fax at (202) 693–2768; or by e-mail at *ETA.OFLC.Forms@dol.gov* subject line: Form 9033A.

SUPPLEMENTARY INFORMATION:

I. Background

The information collection is required by section 258 of the Immigration and Nationality Act (INA) (8 U.S.C. 1288). The INA has an exception to the general prohibition on the performance of longshore work by alien crewmembers for ports in the State of Alaska. Under this ''Alaska exception'', before any employer may use alien crewmembers to perform longshore activities in the State of Alaska, it must submit an attestation to the Secretary of Labor containing the elements prescribed by the INA. The INA further requires that the Secretary of Labor make available for public examination in Washington, DC, a list of employers that have filed attestations and, for each of these employers, a copy of the employer's attestation and accompanying documentation received by the Secretary.

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

In order to meet its statutory responsibilities under the INA, the Department needs to extend an existing collection of information pertaining to employers seeking to use alien crewmembers to perform longshore activities in the State of Alaska. ETA has decreased its burden request because the number of applications has decreased during the last 3 years.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Attestations by Employers Using Alien Crewmembers for Longshore Activities in the State of Alaska.

OMB Number: 1205–0352.

Agency Number(s): Form ETA 9033A.

Recordkeeping: On occasion.

Affected Public: Businesses or other for-profits.

Total Respondents: 20.

Estimated Total Burden Hours: 3.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 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: February 27, 2008.

William L. Carlson,

Administrator, Office of Foreign Labor Certification.

[FR Doc. E8–4347 Filed 3–5–08; 8:45 am]

BILLING CODE 4510–FP–P

MERIT SYSTEMS PROTECTION BOARD

Agency Information Collection Activities; Proposed Collection

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: The U.S. Merit Systems Protection Board is requesting approval from the Office of Management and Budget (OMB) to conduct Federal employee surveys for a period of two years from the approval date. Before submitting the Information Collection Request (ICR) to OMB for review and approval, MSPB is soliciting comments on specific aspects of the information collection in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). In this regard, we are soliciting comments on the public reporting burden. The reporting burden for the collection of information on this form is estimated to average 30 minutes per respondent, including time for reviewing instructions and completing the survey. In addition, the MSPB invites comments on (1) Whether the proposed collection of information is necessary for the proper performance of MSPB's functions, including whether the information will have practical utility; (2) the accuracy of MSPB's estimate of burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

DATES: According to the procedures prescribed in 5 CFR 1320.10, MSPB plans to submit an ICR to OMB for review and approval following the 60-day comment period. Comments must be received on or before April 30, 2008.

ADDRESSES: You may submit comments via any of the following methods: E-mail: *sharon.roth@mspb.gov*. Please include ''Disciplinary Action Surveys'' in the subject line of the message. Fax: (202) 653–7211. Mail: Sharon Roth, U.S. Merit Systems Protection Board, Room 515, 1615 M St., NW., Washington, DC 20419.

FOR FURTHER INFORMATION CONTACT: For information on this survey, contact Sharon Roth by phone on 202–653–6772, ext. 1340, by FAX on 202–653–7211, or by e-mail *sharon.roth@mspb.gov*. You may contact Ms. Roth via V/TDD at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Proposed Project: ''Disciplinary Process within Agencies.''

As part of its statutory mission, MSPB is responsible for conducting studies of the Federal civil service to ensure that all Federal government agencies follow merit systems practices and avoid prohibited personnel practices. To support this research agenda, MSPB periodically conducts surveys of samples of Federal employees. To obtain insight into the perspectives of management and management advisors regarding Federal disciplinary processes, MSPB requests approval to conduct a series of three surveys. All will be completed within two years.

The surveys will be sent to (1) proposing officials for discipline, (2) deciding officials for discipline, and (3) human resources advisors on disciplinary actions. The surveys will ask respondents to share their experiences conducting suspensions of 14 days or less and removal actions, including their level of involvement in decisions made, their use of alternative discipline, the nature of the conduct that led to the action, the role of performance in conduct based actions, and the quality of related training they received. Respondents will be selected based upon disciplinary actions recorded in the Central Personnel Data File (CPDF).

Burden Statement: The annual public reporting and record keeping burden for this collection of information is estimated to average 0.50 hours per respondent.

Respondents/Affected Entities: Participants will be randomly drawn from the agencies that conducted the majority of removal actions in Fiscal Year 2007. For each personnel action, there will be three respondents (the proposing official, the deciding official, and the human resources advisor).

Estimated Number of Respondents: 7,500.

Frequency of Response: Once for most respondents. (If a party was involved in implementing multiple disciplinary actions, there is a potential to receive more than one survey.)

Estimated Total Annual Hour Burden: 3,750.

William D. Spencer,

Clerk of the Board.

[FR Doc. E8–4292 Filed 3–5–08; 8:45 am]

BILLING CODE 7400–01–P

MISSISSIPPI RIVER COMMISSION

Sunshine Act Meetings

AGENCY HOLDING THE MEETINGS: Mississippi River Commission.

TIME AND DATE: 9 a.m., April 7, 2008.

PLACE: On board MISSISSIPPI V at River Park, Tiptonville, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the St. Louis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., April 8, 2008.

PLACE: On board MISSISSIPPI V at Mud Island, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., April 9, 2008.

PLACE: On board MISSISSIPPI V at Lake Providence Port, Lake Providence, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Memphis District; and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

TIME AND DATE: 9 a.m., April 11, 2008.

PLACE: On board MISSISSIPPI V at Corps of Engineers Dock at foot of Prytania Street, New Orleans, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Summary report by President of the Commission on national and regional issues affecting the U.S. Army Corps of Engineers and Commission programs and projects on the Mississippi River and its tributaries; (2) District Commander's overview of current project issues within the Vicksburg District, and (3) Presentations by local organizations and members of the public giving views or comments on any issue affecting the programs or projects of the Commission and the Corps of Engineers.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Gambrell, telephone (601) 634–5766.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 08–978 Filed 3–4–08; 10:34 am]

BILLING CODE 3710–GX–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (08–020)]

National Space-Based Positioning, Navigation, and Timing (PNT) Advisory Board; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), and the President's 2004 U.S. Space-Based Positioning, Navigation and Timing (PNT) Policy, the National Aeronautics and Space Administration announces a meeting of the National Space-Based Positioning, Navigation, and Timing (PNT) Advisory Board.

DATES: Thursday, March 27, 2008, 9 a.m. to 5 p.m.; and Friday, March 28, 2008, 9 a.m. to 1 p.m.

ADDRESSES: Embassy Suites Hotel, 1250 22nd Street, NW., Washington, DC 20037.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Adde, Space Operations Mission Directorate, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–1912.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting includes the following topics:

- Update on Implementation of the President's 2004 U.S. Space-Based Positioning, Navigation and Timing (PNT) Policy.
- Overview of National Space-Based PNT Executive Committee, and National Space-Based PNT Coordination Office.
- Status Update on Global Positioning System (GPS) Constellation and Modernization Plans.
- Maintaining U.S. GPS Technological Leadership and Competitiveness.
- Promoting and Branding Current and Future PNT Capabilities to the U.S. and International Communities.
- Global Technical and Market Trends for PNT Services.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: February 29, 2008.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E8–4406 Filed 3–5–08; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL INDIAN GAMING COMMISSION

Fee Rate

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted preliminary annual fee rates of 0.00% for tier 1 and 0.057% (.00057) for tier 2 for calendar year 2008. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission. If a tribe has a certificate of self-regulation under 25 CFR part 518, the preliminary fee rate on class II revenues for calendar year 2008 shall be one-half of the annual fee rate, which is 0.0285% (.000285)

FOR FURTHER INFORMATION CONTACT: Kwame Mainoo, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005; telephone (202) 632–7003; fax (202) 632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 514), as amended, provide for a system of fee assessment and payment that is self-administered by gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the preliminary rate being adopted today are effective for calendar year 2008. Therefore, all gaming operations within the jurisdiction of the Commission are required to self administer the provisions of these regulations, and report and pay any fees that are due to the Commission by March 31, 2008.

Dated: February 28, 2008.

Philip N. Hogen,

Chairman, National Indian Gaming Commission.

[FR Doc. 08–942 Filed 3–5–08; 8:45 am]

BILLING CODE 7565–07–M

NATIONAL INSTITUTE FOR LITERACY

National Institute for Literacy Advisory Board

AGENCY: National Institute for Literacy.

ACTION: Notice of an open teleconference meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming open teleconference meeting of the National Institute for Literacy Advisory Board. The notice also describes the functions of the Committee. Notice of this meeting is required by Section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of its opportunity to attend.

DATES: March 20, 2008.

Time: 10:30 a.m.–11:30 a.m. by teleconference.

ADDRESSES: 1775 I St., NW., Suite 730, Washington, DC 20006.

FOR FURTHER INFORMATION CONTACT: Steve Langley, Staff Assistant, the National Institute for Literacy; 1775 I St., NW., Suite 730; phone: (202) 233–2043; fax: (202) 233–2050; e-mail: *slangley@nifl.gov.*

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The National Institute for Literacy Advisory Board is authorized by section 242 of the Workforce Investment Act of 1998, Public Law 105–220 (20 U.S.C. 9252). The Board consists of 10 individuals appointed by the President with the advice and consent of the Senate. The Board advises and makes recommendations to the Interagency Group that administers the Institute. The Interagency Group is composed of the Secretaries of Education, Labor, and Health and Human Services. The Interagency Group considers the Board's recommendations in planning the goals of the Institute and in implementing any programs to achieve those goals. Specifically, the Board performs the following functions: (a) Makes recommendations concerning the appointment of the Director and the staff of the Institute; (b) provides independent advice on operation of the Institute; and (c) receives reports from the Interagency Group and the Institute's Director.

The purpose of this meeting is to discuss the Institute's future and current program priorities; status of on-going Institute work; other relevant literacy activities and issues; and other Board business as necessary.

Individuals who will need accommodations for a disability to attend the meeting (e.g., interpreting services, assistance listening devices, or materials in alternative format) should notify Steve Langley at 202–233–2043 no later than March 10, 2008. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Request for Public Written Comment: There will not be an opportunity for public comment at this meeting, however, the public is welcome to send written comments to the Advisory Board no later than 5 p.m. on March 10, 2008, to Steve Langley at the National Institute for Literacy, 1775 I St., NW., Suite 730, Washington, DC 20006, e-mail: *slangley@nifl.gov.*

Records are kept of all Committee proceedings and are available for public inspection at the National Institute for Literacy, 1775 I St., NW., Suite 730, Washington, DC 20006, from the hours of 9 a.m. to 5 p.m., Eastern Standard Time Monday through Friday.

Electronic Access to This Document: You may view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: *http://www.ed.gov/news/federegister.*

To use PDF you must have Adobe Acrobat Reader, which is available free at this site. If you have questions about using PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at: *http://www.gpoaccess.gov/nara/index.html.*

Dated: March 3, 2008.

Sandra Baxter,

Director, the National Institute for Literacy.

[FR Doc. E8–4331 Filed 3–5–08; 8:45 am]

BILLING CODE 6055–01–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: The National Science Foundation (NSF) is announcing plans to request clearance of this collection. In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), we are providing an opportunity for public comment on this action. After obtaining and considering public comment, NSF will prepare the submission requesting that OMB approve clearance of this collection for no longer than 3 years.

DATES: Written comments on this notice must be received by May 5, 2008 to be assured of consideration. Comments received after that date will be considered to the extent practicable.

ADDRESSES: Written comments regarding the information collection and requests for copies of the proposed information collection request should be addressed to Suzanne Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Blvd., Rm. 295, Arlington, VA 22230, or by e-mail to *splimpto@nsf.gov*.

FOR FURTHER INFORMATION CONTACT: Contact 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: Application for NATO Advanced Study Institutes Travel Award and NATO Advanced Study Institutes Travel Award Report Form.

OMB Approval Number: 3145–0001.

Expiration Date of Approval: May 31, 2008.

Type of Request: Intent to seek approval to extend a current information collection for three years.

Abstract: The North Atlantic Treaty Organization (NATO) initiated its Advanced Study Institutes Program in 1958 modeled after a small number of very successful summer science ''courses'' that were held in Europe and that sought to rebuild Europe's science strength following World War II. The goal was to bring together both students and researchers from the leading centers of research in highly targeted fields of science and engineering to promote the ''American'' approach to advanced learning, spirited give-and-take between students and teachers, that was clearly driving the rapid growth of U.S. research strength. Today the goal remains the same; but due to the expansion of NATO, each year an increasing number of ASIs are held in NATO Partner Countries along with those held in NATO Member Countries. In the spirit of cooperation with this important activity, the Foundation inaugurated in 1959 a small program of travel grants for advanced graduate students to assist with the major cost of such participation, that of transatlantic travel. It remains today a significant means for young scientists and engineers to develop contact with their peers throughout the world in their respective fields of specialization.

The Advanced Study Institutes (ASI) travel awards are offered to advanced graduate students, to attend one of the

NATO's ASIs held in the NATO-member and partner countries of Europe. The NATO ASI program is targeted to those individuals nearing the completion of their doctoral studies in science, technology, engineering and mathematics (STEM) who can take advantage of opportunities to become familiar with progress in their respective fields of specialization in other countries.

The Division of Graduate Education (DGE) in the Education and Human Resources (EHR) Directorate administers the NATO ASI Travel Awards Program. The following describes the procedures for the administration of the Foundation's NATO Advanced Study Institute (ASI) Travel Awards, which provide travel support for a number of U.S. graduate students to attend the ASIs scheduled for Europe.

• Advanced Study Institute Determination

Once NATO has notified DGE that the schedule of institutes is final, and DGE has received the descriptions of each institute, DGE determines which institutes NSF will support. The ASI travel award program supports those institutes that offer instruction in the STEM fields traditionally supported by NSF as published in *Guide to Programs*. The program will not support institutes that deal with clinical topics, biomedical topics, or topics that have disease-related goals. Examples of areas of research that will not be considered are epidemiology; toxicology; the development or testing of drugs or procedures for their use; diagnosis or treatment of physical or mental disease, abnormality, or malfunction in human beings or animals; and animal models of such conditions. However, the program does support institutes that involve research in bioengineering, with diagnosis or treatment-related goals that apply engineering principles to problems in biology and medicine while advancing engineering knowledge. The program also supports bioengineering topics that aid persons with disabilities. Program officers from other Divisions in NSF will be contacted should scientific expertise outside of DGE be required in the determination process.

• Solicitation for Nominations

Following the final determination as to which Advanced Study Institutes NSF will support, DGE contacts each institute director to ask for a list of up to 5 nominations to be considered for NSF travel support.

• DGE/EHR Contact With the Individuals Nominated

Each individual who is nominated by a director will be sent the rules of eligibility, information about the amount of funding available, and the forms (NSF Form 1379, giving our Division of Financial Management (DFM) electronic banking information; NSF Form 1310 (already cleared), and NSF Form 192 (Application for International Travel Grant)) necessary for our application process.

• The Funding Process

Once an applicant has been selected to receive NSF travel award support, his or her application is sent to DFM for funding. DFM electronically transfers the amount of $1,000 into the bank or other financial institution account identified by the awardee.

Our plan is to have the $1,000 directly deposited into the awardee's account prior to the purchase of their airline ticket. An electronic message to the awardee states that NSF is providing support in the amount of $1,000 for transportation and miscellaneous expenses. The letter also states that the award is subject to the conditions in F.L. 27, *Attachment to International Travel Grant*, which states the U.S. flag-carrier policy.

As a follow-up, each ASI director may be asked to verify whether all NSF awardees attended the institute. If an awardee is identified as not utilizing the funds as prescribed, we contact the awardee to retrieve the funds. However, if our efforts are not successful, we will forward the awardee's name to the Division of Grants and Agreements (DGA), which has procedures to deal with that situation.

We also ask the awardee to submit a final report on an NSF Form 250, which we provide as an attachment to the electronic award message.

• Selection of Awardees

The criteria used to select NSF Advanced Study Institute travel awardees are as follows:

1. The applicant is an advanced graduate student.

2. We shall generally follow the order of the nominations, listed by the director of the institute, within priority level.

3. Those who have not attended an ASI in the past will have a higher priority than those who have.

4. Nominees from different institutions and research groups have higher priority than those from the same institution or research group. (Typically, no more than one person is invited from a school or from a research group.)

Use of the Information: For NSF Form 192, information will be used in order to verify eligibility and qualifications for the award. For NSF Form 250, information will be used to verify attendance at Advanced Study Institute and will be included in Division reports.

Estimate of Burden: Form 192—1.5 hours.

Form 250—2 hours.

Respondents: Individuals.

Estimated Number of Responses per Award: 150 responses, broken down as follows: For NSF Form 250, 75 respondents; for NSF Form 192, 75 respondents.

Estimated Total Annual Burden on Respondents: 262.5 hours, broken down by 150 hours for NSF Form 250 (2 hours per 75 respondents); and 112.5 hours for NSF Form 192 (1.5 hours per 75 respondents).

Frequency of Responses: Annually.

Comments: Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information 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 on respondents, including through the use of automated collection techniques or other forms of information technology; or (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.

Dated: March 3, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E8–4343 Filed 3–5–08; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Agency Information Collection Activities: Comment Request

AGENCY: National Science Foundation.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public

comment; the first was published in the **Federal Register** at 72 FR 46667, and no substantial comments were received. NSF is forwarding the proposed renewal submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. 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: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725 17th Street, NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 295, Arlington, Virginia 22230 or send e-mail to *splimpto@nsf.gov*. 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 703–292–7556.

NSF 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.

SUPPLEMENTARY INFORMATION:

Title of Collection: National Science Foundation Proposal and Award Information—NSF Proposal and Award Policies & Procedures Guide.

OMB Approval Number: 3145–0058.

Type of Request: Intent to seek approval to extend with revision an information collection for three years.

Proposed Project: NSF is seeking to improve its existing mechanisms for the issuance of proposal and award policies and procedures. Previously, these policies and procedures were contained in two separate issuances: the *Grant Proposal Guide* and the *Grant Policy Manual*. These documents were each separately maintained and issued with different effective dates and significant redundancies between the two documents. We have now collapsed these two documents into a new policy framework: the *NSF Proposal and Award Policies and Procedures Guide*.

Part I of this document will include *NSF Proposal Preparation and Submission Guidelines*, i.e., the *Grant Proposal Guide (GPG)*, and Part II will include the *NSF Award & Administration Guide* (previously known as the GPM). These documents will be available as a single html file on the NSF Web site. This initial issuance of the *NSF Proposal and Award Policies and Procedures Guide* will be effective following approval by OMB of this information collection request. Future issuances of this Guide will be supplemented with additional documents, such as the *NSF Grants.gov Application Guide*.

This new policy framework will assist both NSF customers as well as NSF staff by:

1. Improving both the awareness and knowledge of the complete set of NSF policies and procedural documents;

2. increasing ease of access to the policies and procedures that govern the entire grant lifecycle;

3. eliminating duplicative coverage between the two documents;

4. increasing the transparency of our proposal and award process; and

5. allowing NSF to better manage amendments between the two documents necessitated by administrative changes.

This process also will combine the Grant Proposal Guide (OMB Clearance No. 3145–0058) with the Proposal Review Process (3145–0060) to streamline the proposal and award management processes for applicants and awardees. This will allow NSF to better manage amendments between the two collections necessitated by administrative changes. Following OMB approval, this information will be available electronically by the community via the Internet.

The National Science Foundation (NSF) is an independent Federal agency created by the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–75). The Act states the purpose of the NSF is ''to promote the progress of science; [and] to advance the national health, prosperity, and welfare'' by supporting research and education in all fields of science and engineering.'' The Act authorized and directed NSF to initiate and support:

- Basic scientific research and research fundamental to the engineering process;
- Programs to strengthen scientific and engineering research potential;
- Science and engineering education programs at all levels and in all the various fields of science and engineering;
- Programs that provide a source of information for policy formulation; and
- Other activities to promote these ends.

From those first days, NSF has had a unique place in the Federal Government: It is responsible for the overall health of science and engineering across all disciplines. In contrast, other Federal agencies support research focused on specific missions such as health or defense. The Foundation also is committed to ensuring the nation's supply of scientists, engineers, and science and engineering educators.

The Foundation fulfills this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. It does this through grants and cooperative agreements to more than 2,800 colleges, universities, K–12 school systems, businesses, informal science organizations and other research institutions throughout the U.S. The Foundation accounts for about one-fourth of Federal support to academic institutions for basic research.

Over the years, NSF's statutory authority has been modified in a number of significant ways. In 1968, authority to support applied research was added to the Organic Act. In 1980, the Science and Engineering Equal Opportunities Act gave NSF standing authority to support activities to improve the participation of women and minorities in science and engineering.

Another major change occurred in 1986, when engineering was accorded equal status with science in the Organic Act. NSF has always dedicated itself to providing the leadership and vision needed to keep the words and ideas embedded in its mission statement fresh and up-to-date. Even in today's rapidly changing environment, NSF's core purpose resonates clearly in everything it does: promoting achievement and progress in science and engineering and enhancing the potential for research and education to contribute to the Nation. While NSF's vision of the future and the mechanisms it uses to carry out its charges have evolved significantly over the last four decades, its ultimate mission remains the same.

Use of the information: The regular submission of proposals to the Foundation is part of the collection of information and is used to help NSF fulfill this responsibility by initiating and supporting merit-selected research and education projects in all the scientific and engineering disciplines. NSF receives more than 40,000 proposals annually for new projects, and makes approximately 10,500 new awards.

Support is made primarily through grants, contracts, and other agreements awarded to more than 2,800 colleges, universities, academic consortia, nonprofit institutions, and small businesses. The awards are based mainly on evaluations of proposal merit submitted to the Foundation (proposal review is currently cleared under OMB Control No. 3145–0060).

The Foundation has a continuing commitment to monitor the operations of its information collection to identify and address excessive reporting burdens as well as to identify any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s).

Proposal Evaluation Process

The Foundation relies heavily on the advice and assistance of external advisory committees, ad-hoc proposal reviewers, and to other experts to ensure that the Foundation is able to reach fair and knowledgeable judgments. These scientists and educators come from colleges and universities, nonprofit research and education organizations, industry, and other Government agencies.

In making its decisions on proposals the counsel of these merit reviewers has proven invaluable to the Foundation both in the identification of meritorious projects and in providing sound basis for project restructuring.

Review of proposals may involve large panel sessions, small groups, or use of a mail-review system. Proposals are reviewed carefully by scientists or engineers who are expert in the particular field represented by the proposal. About 54% are reviewed exclusively by panels of reviewers who gather, usually in Arlington, VA, to discuss their advice as well as to deliver it. About 33% are reviewed first by mail reviewers expert in the particular field, then by panels, usually of persons with more diverse expertise, who help the NSF decide among proposals from multiple fields or sub-fields. Finally, about 9% are reviewed exclusively by mail.

Use of the Information

The information collected is used to support grant programs of the Foundation. The information collected on the proposal evaluation forms is used by the Foundation to determine the following criteria when awarding or declining proposals submitted to the Agency: (1) What is the intellectual merit of the proposed activity? (2) What are the broader impacts of the proposed activity?

The information collected on reviewer background questionnaire (NSF 428A) is used by managers to maintain an automated database of reviewers for the many disciplines represented by the proposals submitted to the Foundation. Information collected on gender, race, and ethnicity is used in meeting NSF needs for data to permit response to Congressional and other queries into equity issues. These data also are used in the design, implementation, and monitoring of NSF efforts to increase the participation of various groups in science, engineering, and education.

Confidentiality

When a decision has been made (whether an award or a declination), verbatim copies of reviews, excluding the names of the reviewers, and summaries of review panel deliberations, if any, are provided to the PI. A proposer also may request and obtain any other releasable material in NSF's file on their proposal. Everything in the file except information that directly identifies either reviewers or other pending or declined proposals is usually releasable to the proposer.

While a listing of panelists' names is released annually, the names of individual reviewers, associated with individual proposals, are not released to anyone.

Because the Foundation is committed to monitoring and identifying any real or apparent inequities based on gender, race, ethnicity, or disability of the proposed principal investigator(s)/project director(s) or the co-principal investigator(s)/co-project director(s), the Foundation also collects information regarding race, ethnicity, disability, and gender. This information also is protected by the Privacy Act.

Burden on the Public: It has been estimated that the public expends an average of approximately 120 burden hours for each proposal submitted. Since the Foundation expects to receive approximately 45,000 proposals in FY 2007, an estimated 5,400,000 burden hours will be placed on the public.

The Central Contractor Registry (CCR) states it takes approximately one hour for an organization to complete the online registration, depending upon the size and complexity of the organization. The one hour to complete registration includes the time to read the instructions and to complete the form online. CCR does have handbook users may refer during the registration process. CCR recommends factoring in an additional 15 minutes in the instance the user references the handbook. When calculating the burden for this change in 2007, NSF retrieved a list of organizations that submitted proposals to the Foundation in FY 2006 and used a sample (5% error) to determine the percentage of these organizations registered in the CCR. Based on this sample, NSF determined that approximately 184 organizations would be affected, with an average of 1.25 hours to register, for a total of 230 hours.

The Foundation has based its reporting burden on the review of approximately 45,000 new proposals expected during FY 2007. It has been estimated that anywhere from one hour to 20 hours may be required to review a proposal. We have estimated that approximately 5 hours are required to review an average proposal. Each proposal receives an average of 3 reviews, resulting in approximately 1,350,000 burden hours each year.

The information collected on reviewer background questionnaire (NSF 428A) is used by managers to maintain an automated database of reviewers for the many disciplines represented by the proposals submitted to the Foundation. Information collected on gender, race, and ethnicity is used in meeting NSF needs for data to permit response to Congressional and other queries into equity issues. These data also are used in the design, implementation, and monitoring of NSF efforts to increase the participation of various groups in science, engineering, and education. The estimated burden for the Reviewer Background Information (NSF 428A) is estimated at 5 minutes per respondent with up to 10,000 potential new reviewers for a total of 83 hours.

The aggregate number of burden hours is estimated to be 6,750,313. The actual burden on respondents has not changed.

Dated: March 3, 2008.

Suzanne H. Plimpton,

Reports Clearance Officer, National Science Foundation.

[FR Doc. E8–4344 Filed 3–5–08; 8:45 am]

BILLING CODE 7555–01–P

OFFICE OF MANAGEMENT AND BUDGET

Cost of Hospital and Medical Care Treatment Furnished by the Department of Defense Medical Treatment Facilities; Certain Rates Regarding Recovery From Tortiously Liable Third Persons

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: By virtue of the authority vested in the President by Section 2(a) of Pub. B. 87–603 (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by the President through Executive Order No. 11541 of July 1, 1970, the rates referenced below are hereby established. These rates are for use in connection with the recovery from tortiously liable third persons for the cost of inpatient medical services furnished by military treatment facilities through the Department of Defense (DoD). The rates have been established in accordance with the requirements of OMB Circular A–25, requiring reimbursement of the full cost of all services provided. The inpatient medical rates referenced are effective upon publication of this notice in the **Federal Register** and will remain in effect until further notice. The outpatient medical and dental, and cosmetic surgery rates published on November 21, 2007, remain in effect until further notice. Pharmacy rates are updated periodically. A full disclosure of the rates is posted at the DoD's Uniform Business Office Web Site: *http://www.tricare.mil/ocfo/_docs/FY%2008%20Direct%20Care%20Inpt%20Billing%20Rates.pdf.*

Jim Nussle,

Director.

[FR Doc. E8–4330 Filed 3–5–08; 8:45 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–28177]

Notice of Applications for Deregistration Under Section 8(f) of the Investment Company Act of 1940

February 29, 2008.

The following is a notice of applications for deregistration under section 8(f) of the Investment Company Act of 1940 for the month of February, 2008. A copy of each application may be obtained for a fee at the SEC's Public Reference Branch (tel. 202–551–5850). An order granting each application will be issued unless the SEC orders a hearing. Interested persons may request a hearing on any application by writing to the SEC's Secretary at the address below and serving the relevant applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on March 25, 2008, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

FOR FURTHER INFORMATION CONTACT: Diane L. Titus at (202) 551–6810, SEC, Division of Investment Management, Office of Investment Company Regulation, 100 F Street, NE., Washington, DC 20549–4041.

BlackRock Enhanced Equity Yield Fund II, Inc.

[File No. 811–21754]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on November 2, 2007, and amended on February 20, 2008.

Applicant's Address: BlackRock, Inc., 800 Scudders Mill Rd., Plainsboro, NJ 08536.

WM Trust I

[File No. 811–123]

WM Trust II

[File No. 811–5775]

WM Strategic Asset Management Portfolios, LLC

[File No. 811–7577]

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On January 12, 2007, each applicant transferred its assets to corresponding series of Principal Investors Fund, Inc., based on net asset value. Expenses of $2,138,833, $7,028,600 and $2,965,610, respectively, incurred in connection with the reorganizations were paid by New American Capital, Inc., the parent company of applicants' investment adviser, and Principal Management Corporation, the acquiring fund's investment adviser.

Filing Dates: The applications were filed on November 9, 2007, and amended on February 15, 2008.

Applicants' Address: 1201 Third Ave., 8th Floor, Seattle, WA 98101.

McMorgan Funds

[File No. 811–8370]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On November 27, 2007, four series of applicant transferred their assets to corresponding series of The MainStay Funds, based on net asset value. On November 29, 2007, applicant's remaining two series made liquidating distributions to their shareholders, based on net asset value. Expenses of $993,246 incurred in connection with the reorganization and liquidation were paid by New York Life Investment Management LLC, applicant's subadviser and investment adviser to the acquiring funds.

Filing Dates: The application was filed on December 28, 2007, and amended on February 11, 2008.

Applicant's Address: One Bush St., Suite 800, San Francisco, CA 94104.

Schwab Strategic Ten Trust 1997 Series A

[File No. 811–8293]

Summary: Applicant, a unit investment trust, seeks an order declaring that it has ceased to be an investment company. On July 21, 2006, applicant made a liquidating distribution to unitholders, based on net asset value. Applicant incurred no expenses in connection with the liquidation.

Filing Dates: The application was filed on December 20, 2007, and amended on February 18, 2008.

Applicant's Address: 101 Montgomery St., San Francisco, CA 94101.

AEW Real Estate Income Fund

[File No. 811–21206]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On April 10, 2007, applicant paid a liquidation preference of $25,000 per share plus accumulated but unpaid dividends to holders of its preferred shares. On April 13, 2007, applicant made a liquidating distribution to holders of its common shares, based on net asset value. Expenses of $30,081 incurred in

connection with the liquidation were paid by applicant and applicant's administrator. In addition, applicant will use a receivable from Natixis Asset Management Advisors, L.P., in the amount of $4,570 to pay certain outstanding expenses of the same amount.

Filing Dates: The application was filed on December 21, 2007, and amended on February 4, 2008.

Applicant's Address: Natixis Asset Management Advisors, L.P., 399 Boylston St., Boston, MA 02116.

Blue and White Funds Trust

[File No. 811–21143]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On January 7, 2008, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of approximately $73,500 incurred in connection with the liquidation were paid by applicant.

Filing Dates: The application was filed on August 2, 2006, and amended on October 26, 2006, and January 25, 2008.

Applicant's Address: Kevin McGlynn, Chairman of the Board of Trustees, c/o IN PACA Lawyers PLLC, 801 2nd Avenue, Suite 307, Seattle, WA 98104.

Merrill Lynch KECALP L.P. 1994

[File No. 811–7137].

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 19, 2007, applicant made a liquidating distribution to its shareholders, based on net asset value. Expenses of approximately $77,225 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on December 20, 2007.

Applicant's Address: Merrill Lynch, 4 World Financial Center, 23rd Floor, New York, NY 10080.

General California Municipal Bond Fund, Inc.

[File No. 811–5872]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 26, 2004, applicant transferred its assets to Dreyfus Premier California Tax Exempt Bond Fund, Inc., based on net asset value. Expenses of $72,000 incurred in connection with the reorganization were paid by The Dreyfus Corporation, applicant's investment adviser.

Filing Date: The application was filed on January 17, 2008.

Applicant's Address: c/o The Dreyfus Corporation, 200 Park Ave., New York, NY 10166.

General Municipal Bond Fund, Inc.

[File No. 811–3372]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 13, 2004, applicant transferred its assets to Dreyfus Premier Municipal Bond Fund, based on net asset value. Expenses of $80,500 incurred in connection with the reorganization were paid by The Dreyfus Corporation, applicant's investment adviser.

Filing Date: The application was filed on January 17, 2008.

Applicant's Address: c/o The Dreyfus Corporation, 200 Park Ave., New York, NY 10166.

Seligman New Technologies Fund, Inc.

[File No. 811–9353]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On December 10, 2007, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $396,845 incurred in connection with the liquidation were paid by applicant. Applicant also has retained approximately $47,800 in cash to cover certain unpaid expenses relating to its liquidation and dissolution.

Filing Date: The application was filed on January 4, 2008.

Applicant's Address: 100 Park Ave., New York, NY 10017.

Dreyfus Premier California Municipal Bond Fund

[File No. 811–4766]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 21, 2004, applicant transferred its assets to Dreyfus Premier California Tax Exempt Bond Fund, Inc., based on net asset value. Expenses of $65,273 incurred in connection with the reorganization were paid by The Dreyfus Corporation, applicant's investment adviser.

Filing Date: The application was filed on January 17, 2008.

Applicant's Address: c/o The Dreyfus Corporation, 200 Park Ave., New York, NY 10166.

Barclay Foundry Investment Trust

[File No. 811–22084]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Dates: The application was filed on January 16, 2008, and amended on February 22, 2008.

Applicant's Address: 45 Fremont St., San Francisco, CA 94105.

BlackRock Municipal Target Term Trust Inc.

[File No. 811–6355]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On September 18, 2007, applicant made a final liquidating distribution to its shareholders, based on net asset value. Expenses of $16,000 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on February 8, 2008.

Applicant's Address: 100 Bellevue Parkway, Wilmington, DE 19809.

Short Term Income Fund, Inc.

[File No. 811–2950].

Daily Tax Free Income Fund, Inc.

[File No. 811–3522].

Cortland Trust, Inc.

[File No. 811–4179].

Summary: Each applicant seeks an order declaring that it has ceased to be an investment company. On November 19, 2007, each applicant transferred its assets to Daily Income Fund, based on net asset value. Expenses of $710,608 incurred in connection with each reorganization were paid by Reich & Tang Asset Management, LLC, applicants' investment adviser.

Filing Dates: The applications were filed on February 11, 2008, and Short Term Income Fund, Inc. filed an amended application on February 22, 2008.

Applicants' Address: 600 Fifth Ave., 8th Floor, New York, NY 10020–2302.

A T Fund of Funds TEI

[File No. 811–22062]

Summary: Applicant, a closed-end investment company, seeks an order declaring that it has ceased to be an investment company. On January 31, 2008, applicant made a liquidating distribution to its sole shareholder, based on net asset value. Expenses of approximately $2,000 incurred in connection with the liquidation were paid by Allegiance Investment Management LLC, applicant's administrator.

Filing Date: The application was filed on February 13, 2008.

Applicant's Address: 300 Pacific Coast Hwy., Suite 305, Huntington Beach, CA 92648.

Keeley Small Cap Value Fund, Inc.

[File No. 811–7760]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On December 31, 2007, applicant transferred its assets to Keeley Small Cap Value Fund, a series of Keeley Funds, Inc., based on net asset value. Expenses of $25,600 incurred in connection with the reorganization were paid by applicant.

Filing Date: The application was filed on January 25, 2008.

Applicant's Address: 401 South LaSalle, Suite 1201, Chicago, IL 60605.

Highland Floating Rate Limited Liability Company

[File No. 811–8957]

Summary: Applicant, a master fund in a master-feeder structure, seeks an order declaring that it has ceased to be an investment company. On December 31, 2007, applicant made a liquidating distribution to Highland Floating Rate Fund, its feeder fund and sole shareholder. Expenses of approximately $5,000 incurred in connection with the liquidation were paid by applicant.

Filing Date: The application was filed on February 6, 2008.

Applicant's Address: c/o Highland Capital Management, L.P., Two Galleria Tower, 13455 Noel Rd., Suite 800, Dallas, TX 75240.

High Income Master Portfolio LLC

[File No. 811–21690]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. Applicant has never made a public offering of its securities and does not propose to make a public offering or engage in business of any kind.

Filing Date: The application was filed on January 29, 2008.

Applicant's Address: c/o Highland Capital Management, L.P., Two Galleria Tower, 13455 Noel Rd., Suite 800, Dallas, TX 75240.

Dreyfus Massachusetts Tax Exempt Bond Fund

[File No. 811–4271]

Summary: Applicant seeks an order declaring that it has ceased to be an investment company. On October 20, 2004, applicant transferred its assets to the Massachusetts Series of Dreyfus Premier State Municipal Bond Fund, based on net asset value. Expenses of $66,440 incurred in connection with the reorganization were paid by The Dreyfus Corporation, applicant's investment adviser.

Filing Date: The application was filed on January 30, 2008.

Applicant's Address: c/o The Dreyfus Corporation, 200 Park Ave., New York, NY 10166.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4257 Filed 3–5–08; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57407/February 29, 2008]

Order Making Fiscal 2008 Mid-Year Adjustment to the Fee Rates Applicable Under Sections 31(b) and (c) of the Securities Exchange Act of 1934

I. Background

Section 31 of the Securities Exchange Act of 1934 (''Exchange Act'') requires each national securities exchange and national securities association to pay transaction fees to the Commission.[1] Specifically, section 31(b) requires each national securities exchange to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities transacted on the exchange.[2] Section 31(c) requires each national securities association to pay to the Commission fees based on the aggregate dollar amount of sales of certain securities transacted by or through any member of the association other than on an exchange.[3]

Sections 31(j)(1) and (3) require the Commission to make annual adjustments to the fee rates applicable under sections 31(b) and (c) for each of the fiscal years 2003 through 2011, and one final adjustment to fix the fee rates for fiscal year 2012 and beyond.[4] Section 31(j)(2) requires the Commission, in certain circumstances, to make a mid-year adjustment to the fee rates in fiscal 2002 through fiscal 2011.[5] The annual and mid-year adjustments are designed to adjust the fee rates in a given fiscal year so that, when applied to the aggregate dollar volume of sales for the fiscal year, they are reasonably likely to produce total fee collections under section 31 equal to the ''target offsetting collection amount'' specified in Section 31(l)(1) for that fiscal year.[6] For fiscal 2008, the target offsetting collection amount is $892,000,000.[7]

II. Determination of the Need for a Mid-Year Adjustment in Fiscal 2008

Under section 31(j)(2) of the Exchange Act, the Commission must make a mid-year adjustment to the fee rates under Sections 31(b) and (c) in fiscal year 2008 if it determines, based on the actual aggregate dollar volume of sales during the first five months of the fiscal year, that the baseline estimate ($78,732,152,559,457) is reasonably likely to be 10% (or more) greater or less than the actual aggregate dollar volume of sales for fiscal 2008.[8] To make this determination, the Commission must estimate the actual aggregate dollar volume of sales for fiscal 2008.

Based on data provided by the national securities exchanges and the national securities association that are subject to section 31,[9] the actual aggregate dollar volume of sales during the first four months of fiscal 2008 was $27,185,458,106,162.[10] Using these data and a methodology for estimating the aggregate dollar amount of sales for the remainder of fiscal 2008 (developed after consultation with the Congressional Budget Office and the OMB),[11] the Commission estimates that the aggregate dollar amount of sales for the remainder of fiscal 2008 to be $71,539,094,586,685. Thus, the Commission estimates that the actual aggregate dollar volume of sales for all of fiscal 2008 will be $98,724,552,692,847.

[1] 15 U.S.C. 78ee.

[2] 15 U.S.C. 78ee(b).

[3] 15 U.S.C. 78ee(c).

[4] 15 U.S.C. 78ee(j)(1) and (j)(3).

[5] 15 U.S.C. 78ee(j)(2).

[6] 15 U.S.C. 78ee(*l*)(1).

[7] *Id.*

[8] The amount $78,732,152,559,457 is the baseline estimate of the aggregate dollar amount of sales for fiscal year 2008 calculated by the Commission in its Order Making Fiscal 2008 Annual Adjustments to the Fee Rates Applicable Under Section 6(b) of the Securities Act of 1933 and Sections 13(e), 14(g), 31(b) and 31(c) of the Securities Exchange Act of 1934, Rel. No. 33–8794 (April 30, 2007), 72 FR 25809 (May 7, 2007).

[9] The Financial Industry Regulatory Authority (''FINRA'') and each exchange is required to file a monthly report on Form R31 containing dollar volume data on sales of securities subject to Section 31. The report is due on the 10th business day following the month for which the exchange or association provides dollar volume data.

[10] Although Section 31(j)(2) indicates that the Commission should determine the actual aggregate dollar volume of sales for fiscal 2008 ''based on the actual aggregate dollar volume of sales during the first 5 months of such fiscal year,'' data are only available for the first four months of the fiscal year as of the date the Commission is required to issue this order, *i.e.*, March 1, 2008. Dollar volume data on sales of securities subject to Section 31 for February 2008 will not be available from the exchanges and FINRA for several weeks.

[11] *See* Appendix A.

Because the baseline estimate of $78,732,152,559,457 is more than 10% less than the $98,724,552,692,847 estimated actual aggregate dollar volume of sales for fiscal 2008, section 31(j)(2) of the Exchange Act requires the Commission to issue an order adjusting the fee rates under sections 31(b) and (c).

III. Calculation of the Uniform Adjusted Rate

Section 31(j)(2) specifies the method for determining the mid-year adjustment for fiscal 2008. Specifically, the Commission must adjust the rates under sections 31(b) and (c) to a ''uniform adjusted rate that, when applied to the revised estimate of the aggregate dollar amount of sales for the remainder of [fiscal 2008], is reasonably likely to produce aggregate fee collections under section 31 (including fees collected during such 5-month period and assessments collected under [Section 31(d)]) that are equal to [$892,000,000].'' [12] In other words, the uniform adjusted rate is determined by subtracting fees collected prior to the effective date of the new rate and assessments collected under section 31(d) during all of fiscal 2008 from $892,000,000, which is the target offsetting collection amount for fiscal 2008. That difference is then divided by the revised estimate of the aggregate dollar volume of sales for the remainder of the fiscal year following the effective date of the new rate.

The Commission estimates that it will collect $581,546,346 in fees for the period prior to the effective date of the mid-year adjustment [13] and $32,475 in assessments on round turn transactions in security futures products during all of fiscal 2008. Using the methodology referenced in Part II above, the Commission estimates that the aggregate dollar volume of sales for the remainder of fiscal 2008 following the effective date of the new rate will be $55,740,439,070,059. Based on these estimates, the uniform adjusted rate is $5.60 per million of the aggregate dollar amount of sales of securities.[14]

The Commission recognizes that this fee rate is lower than the current fee rate of $11.00 per million. The new fee rate is established by the statutory mid-year adjustment mechanism and is a direct consequence of more recent information on the dollar amount of sales of securities. The aggregate dollar amount of sales of securities subject to section 31 fees is illustrated in Appendix A.

IV. Effective Date of the Uniform Adjusted Rate

Section 31(j)(4)(B) of the Exchange Act provides that a mid-year adjustment shall take effect on April 1 of the fiscal year in which such rate applies. Therefore, the exchanges and the national securities association that are subject to section 31 fees must pay fees under sections 31(b) and (c) at the uniform adjusted rate of $5.60 per million for sales of securities transacted on April 1, 2008, and thereafter until the annual adjustment for fiscal 2009 is effective.[15]

V. Conclusion

Accordingly, pursuant to section 31 of the Exchange Act,[16] *It is hereby ordered* that each of the fee rates under sections 31(b) and (c) of the Exchange Act shall be $5.60 per $1,000,000 of the aggregate dollar amount of sales of securities subject to these sections effective April 1, 2008.

By the Commission.

Nancy M. Morris,

Secretary.

Appendix A

A. Baseline Estimate of the Aggregate Dollar Amount of Sales

First, calculate the average daily dollar amount of sales (ADS) for each month in the sample (January 1998–January 2008). The data obtained from the exchanges and FINRA are presented in Table A. The monthly aggregate dollar amount of sales from all exchanges and FINRA is contained in column C.

Next, calculate the change in the natural logarithm of ADS from month-to-month. The average monthly change in the logarithm of ADS over the entire sample is 0.017 and the standard deviation 0.124. Assume the monthly percentage change in ADS follows a random walk. The expected monthly percentage growth rate of ADS is 2.5 percent.

Now, use the expected monthly percentage growth rate to forecast total dollar volume. For example, one can use the ADS for January 2008 ($380,797,961,013) to forecast ADS for February 2008 ($390,166,745,447 = $380,797,961,013 × 1.025).[17] Multiply by the number of trading days in February 2008 (20) to obtain a forecast of the total dollar volume for the month ($7,803,334,908,936). Repeat the method to generate forecasts for subsequent months.

The forecasts for total dollar volume are in column G of Table A. The following is a more formal (mathematical) description of the procedure:

1. Divide each month's total dollar volume (column C) by the number of trading days in that month (column B) to obtain the average daily dollar volume (ADS, column D).

2. For each month t, calculate the change in ADS from the previous month as $\Delta_t = \log(ADS_t / ADS_{t-1})$, where log (x) denotes the natural logarithm of x.

3. Calculate the mean and standard deviation of the series $\{\Delta_1, \Delta_2, * * *, \Delta_{120}\}$. These are given by $\mu = 0.017$ and $\sigma = 0.124$, respectively.

4. Assume that the natural logarithm of ADS follows a random walk, so that Δ_s and Δ_t are statistically independent for any two months s and t.

5. Under the assumption that Δ_t is normally distributed, the expected value of ADS_t / ADS_{t-1} is given by $\exp(\mu + \sigma^2)$, or on average $ADS_t = 1.025 \times ADS_{t-1}$.

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[12] 15 U.S.C. 78ee(j)(2). The term ''fees collected'' is not defined in Section 31. Because national securities exchanges and national securities associations are not required to pay the first installment of Section 31 fees for fiscal 2008 until March 15, the Commission will not ''collect'' any fees in the first five months of fiscal 2008. See 15 U.S.C. 78ee(e). However, the Commission believes that, for purposes of calculating the mid-year adjustment, Congress, by stating in Section 31(j)(2) that the ''uniform adjusted rate * * * is reasonably likely to produce aggregate fee collections under Section 31 * * * that are equal to [$892,000,000],'' intended the Commission to include the fees that the Commission will collect based on transactions in the six months before the effective date of the mid-year adjustment.

[13] This calculation is based on applying a fee rate of $15.30 per million to the aggregate dollar volume of sales of securities subject to Section 31 through January 24, 2008, and a rate of $11.00 for the period from January 25, 2008 to March 31, 2008. Because the Commission's regular appropriation for fiscal year 2008 was not enacted prior to the end of fiscal year 2007, Exchange Act Section 31(k), the ''Lapse of Appropriation'' provision, required that the fee rate in use at the end of fiscal year 2007, $15.30 per million, remain in effect until 30 days after the appropriation was enacted. See also Order Making Fiscal 2008 Annual Adjustments to the Fee Rates Applicable Under Section 6(b) of the Securities Act of 1933 and Sections 13(e), 14(g), 31(b) and 31(c) of the Securities Exchange Act of 1934, Rel. No. 33–8794 (April 30, 2007), 72 FR 25809 (May 7, 2007). The Commission's regular appropriation for fiscal year 2008 was enacted on December 26, 2007, and the $11.00 per million rate went into effect 30 days later, by operation of the statute. *See* Exchange Act Section 31(j)(4)(A)(ii).

[14] The calculation is as follows: ($892,000,000 − $581,546,346 − $32,475)/$55,740,439,070,059 = $0.0000055690. Round this result to the seventh decimal point, yielding a rate of $5.60 per million.

[15] Section 31(j)(1) and Section 31(g) of the Exchange Act require the Commission to issue an order no later than April 30, 2008, adjusting the fee rates applicable under Sections 31(b) and (c) for fiscal 2009. These fee rates for fiscal 2009 will be effective on the later of October 1, 2008 or thirty days after the enactment of the Commission's regular appropriation for fiscal 2009.

[16] 15 U.S.C. 78ee.

[17] The value 1.025 has been rounded. All computations are done with the unrounded value.

6. For February 2008, this gives a forecast ADS of 1.025 × $380,797,961,013 = $390,166,745,447. Multiply this figure by the 20 trading days in February 2008 to obtain a total dollar volume forecast of $7,803,334,908,936.

7. For March 2008, multiply the February 2008 ADS forecast by 1.025 to obtain a forecast ADS of $399,766,030,385. Multiply this figure by the 20 trading days in March 2008 to obtain a total dollar volume forecast of $7,995,320,607,691.

8. Repeat this procedure for subsequent months.

B. Using the Forecasts From A to Calculate the New Fee Rate

1. Determine the aggregate dollar volume of sales between 10/1/07 and 1/24/08 to be $25,283,975,749,096. Multiply this amount by the fee rate of $15.3 per million dollars in sales during this period and get $386,844,829 in actual fees collected during 10/1/07 and 1/24/08. Determine the actual and projected aggregate dollar volume of sales between 1/25/08 and 3/31/08 to be $17,700,137,873,692. Multiply this amount by the fee rate of $11.00 per million dollars in sales during this period and get an estimate of $194,701,517 in actual and projected fees collected during 1/25/08 and 3/31/08.

2. Estimate the amount of assessments on security futures products collected during 10/1/07 and 9/30/08 to be $32,475 by summing the amounts collected through January of $8,747 with projections of a 2.5% monthly increase in subsequent months.

3. Determine the projected aggregate dollar volume of sales between 4/1/08 and 9/30/08 to be $55,740,439,070,059.

4. The rate necessary to collect the target $892,000,000 in fee revenues is then calculated as: ($892,000,000 − $386,844,829 − $194,701,517 − $32,475) ÷ $55,740,439,070,059 = 0.0000055690.

5. Round the result to the seventh decimal point, yielding a rate of 0.0000056 (or $5.60 per million).

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Table A. Estimation of baseline of the aggregate dollar amount of sales.
(Methodology developed in consultation with the Office of Management and Budget and the Congressional Budget Office.)

Fee rate calculation.

a. Baseline estimate of the aggregate dollar amount of sales, 10/1/07 to 1/24/08 ($Millions)	25,283,976
b. Baseline estimate of the aggregate dollar amount of sales, 1/25/08 to 3/31/08 ($Millions)	17,700,138
c. Baseline estimate of the aggregate dollar amount of sales, 4/1/08 to 9/30/08 ($Millions)	55,740,439
d. Estimated collections in assessments on security futures products in FY 2005 ($Millions)	0.032
e. Implied fee rate (($892,000,000 - 0.0000153*a - 0.0000110*b - d) /c)	$5.56905

Data

(A) Month	(B) # of Trading Days in Month	(C) Aggregate Dollar Amount of Sales	(D) Average Daily Dollar Amount of Sales (ADS)	(E) Change in LN of ADS	(F) Forecast ADS	(G) Forecast Aggregate Dollar Amount of Sales
Jan-98	20	1,037,925,292,902	51,896,264,645	-		
Feb-98	19	1,081,705,333,396	56,931,859,652	0.093		
Mar-98	22	1,259,994,685,467	57,272,485,703	0.006		
Apr-98	21	1,298,494,359,253	61,833,064,726	0.077		
May-98	20	1,110,221,658,995	55,511,082,950	-0.108		
Jun-98	22	1,243,779,791,913	56,535,445,087	0.018		
Jul-98	22	1,399,011,433,748	63,591,428,807	0.118		
Aug-98	21	1,307,501,463,442	62,261,974,450	-0.021		
Sep-98	21	1,352,428,235,083	64,401,344,528	0.034		
Oct-98	22	1,460,835,397,598	66,401,608,982	0.031		
Nov-98	20	1,298,403,768,065	64,920,188,403	-0.023		
Dec-98	22	1,442,697,787,306	65,577,172,150	0.010		
Jan-99	19	1,884,555,055,910	99,187,108,206	0.414		
Feb-99	19	1,656,058,202,765	87,160,958,040	-0.129		
Mar-99	23	1,908,967,664,074	82,998,594,090	-0.049		
Apr-99	21	2,177,601,770,622	103,695,322,411	0.223		
May-99	20	1,784,400,906,987	89,220,045,349	-0.150		
Jun-99	22	1,697,339,227,503	77,151,783,068	-0.145		
Jul-99	21	1,767,035,098,986	84,144,528,523	0.087		
Aug-99	22	1,692,907,150,726	76,950,325,033	-0.089		
Sep-99	21	1,730,505,881,178	82,405,041,961	0.068		
Oct-99	21	2,017,474,765,542	96,070,226,931	0.153		
Nov-99	21	2,348,374,009,334	111,827,333,778	0.152		
Dec-99	22	2,686,788,531,991	122,126,751,454	0.088		
Jan-00	20	3,057,831,397,113	152,891,569,856	0.225		
Feb-00	20	2,973,119,888,063	148,655,994,403	-0.028		
Mar-00	23	4,135,152,366,234	179,789,233,315	0.190		
Apr-00	19	3,174,694,525,687	167,089,185,562	-0.073		
May-00	22	2,649,273,207,318	120,421,509,424	-0.328		
Jun-00	22	2,883,513,997,781	131,068,818,081	0.085		
Jul-00	20	2,804,753,395,361	140,237,669,768	0.068		
Aug-00	23	2,720,788,395,832	118,295,147,645	-0.170		
Sep-00	20	2,930,188,809,012	146,509,440,451	0.214		
Oct-00	22	3,485,926,307,727	158,451,195,806	0.078		
Nov-00	21	2,795,778,876,887	133,132,327,471	-0.174		
Dec-00	20	2,809,917,349,851	140,495,867,493	0.054		
Jan-01	21	3,143,501,125,244	149,690,529,774	0.063		
Feb-01	19	2,372,420,523,286	124,864,238,068	-0.181		
Mar-01	22	2,554,419,085,113	116,109,958,414	-0.073		
Apr-01	20	2,324,349,507,745	116,217,475,387	0.001		
May-01	22	2,353,179,388,303	106,962,699,468	-0.083		
Jun-01	21	2,111,922,113,236	100,567,719,678	-0.062		
Jul-01	21	2,004,384,034,554	95,446,858,788	-0.052		
Aug-01	23	1,803,565,337,795	78,415,884,252	-0.197		
Sep-01	15	1,573,484,946,383	104,898,996,426	0.291		
Oct-01	23	2,147,238,873,044	93,358,211,871	-0.117		
Nov-01	21	1,939,427,217,518	92,353,677,025	-0.011		
Dec-01	20	1,921,098,738,113	96,054,936,906	0.039		

Jan-02	21	2,149,243,312,432	102,344,919,640	0.063		
Feb-02	19	1,928,830,595,585	101,517,399,768	-0.008		
Mar-02	20	2,002,216,374,514	100,110,818,726	-0.014		
Apr-02	22	2,062,101,866,506	93,731,903,023	-0.066		
May-02	22	1,985,859,756,557	90,266,352,571	-0.038		
Jun-02	20	1,882,185,380,609	94,109,269,030	0.042		
Jul-02	22	2,349,564,490,189	106,798,385,918	0.126		
Aug-02	22	1,793,429,904,079	81,519,541,095	-0.270		
Sep-02	20	1,518,944,367,204	75,947,218,360	-0.071		
Oct-02	23	2,127,874,947,972	92,516,302,086	0.197		
Nov-02	20	1,780,816,458,122	89,040,822,906	-0.038		
Dec-02	21	1,561,092,215,646	74,337,724,555	-0.180		
Jan-03	21	1,723,698,830,414	82,080,896,686	0.099		
Feb-03	19	1,411,722,405,357	74,301,179,229	-0.100		
Mar-03	21	1,699,581,267,718	80,932,441,320	0.085		
Apr-03	21	1,759,751,025,279	83,797,667,870	0.035		
May-03	21	1,871,390,985,678	89,113,856,461	0.062		
Jun-03	21	2,122,225,077,345	101,058,337,016	0.126		
Jul-03	22	2,100,812,973,956	95,491,498,816	-0.057		
Aug-03	21	1,766,527,686,224	84,120,366,011	-0.127		
Sep-03	21	2,063,584,421,939	98,265,924,854	0.155		
Oct-03	23	2,331,850,083,022	101,384,786,218	0.031		
Nov-03	19	1,903,726,129,859	100,196,112,098	-0.012		
Dec-03	22	2,066,530,151,383	93,933,188,699	-0.065		
Jan-04	20	2,390,942,905,678	119,547,145,284	0.241		
Feb-04	19	2,177,765,594,701	114,619,241,826	-0.042		
Mar-04	23	2,613,808,754,550	113,643,858,893	-0.009		
Apr-04	21	2,418,663,760,191	115,174,464,771	0.013		
May-04	20	2,259,243,404,459	112,962,170,223	-0.019		
Jun-04	21	2,112,826,072,876	100,610,765,375	-0.116		
Jul-04	21	2,209,808,376,565	105,228,970,313	0.045		
Aug-04	22	2,033,343,354,640	92,424,697,938	-0.130		
Sep-04	21	1,993,803,487,749	94,943,023,226	0.027		
Oct-04	21	2,414,599,088,108	114,980,908,958	0.191		
Nov-04	21	2,577,513,374,160	122,738,732,103	0.065		
Dec-04	22	2,673,532,981,863	121,524,226,448	-0.010		
Jan-05	20	2,581,839,174,160	129,091,958,708	0.060		
Feb-05	19	2,532,202,396,053	133,273,810,319	0.032		
Mar-05	22	3,030,474,095,010	137,748,822,500	0.033		
Apr-05	21	2,906,386,858,222	138,399,374,201	0.005		
May-05	21	2,697,406,551,792	128,447,931,038	-0.075		
Jun-05	22	2,825,792,932,509	128,445,133,296	0.000		
Jul-05	20	2,603,995,025,602	130,199,751,280	0.014		
Aug-05	23	2,846,109,434,770	123,743,888,468	-0.051		
Sep-05	21	3,009,608,583,531	143,314,694,454	0.147		
Oct-05	21	3,279,930,784,463	156,187,180,213	0.086		
Nov-05	21	3,163,288,362,669	150,632,779,175	-0.036		
Dec-05	21	3,090,218,506,716	147,153,262,225	-0.023		
Jan-06	20	3,573,306,111,973	178,665,305,599	0.194		
Feb-06	19	3,313,973,129,190	174,419,638,378	-0.024		
Mar-06	23	3,807,374,752,084	165,538,032,699	-0.052		
Apr-06	19	3,257,448,631,999	171,444,664,842	0.035		
May-06	22	4,206,452,683,345	191,202,394,697	0.109		
Jun-06	22	3,993,966,132,543	181,543,915,116	-0.052		
Jul-06	20	3,339,657,248,277	166,982,862,414	-0.084		
Aug-06	23	3,410,343,285,403	148,275,795,018	-0.119		
Sep-06	20	3,407,481,301,776	170,374,065,089	0.139		
Oct-06	22	3,980,061,341,623	180,911,879,165	0.060		
Nov-06	21	3,933,474,986,969	187,308,332,713	0.035		
Dec-06	20	3,715,146,848,695	185,757,342,435	-0.008		
Jan-07	20	4,264,337,570,190	213,216,878,510	0.138		
Feb-07	19	3,947,307,855,865	207,753,045,046	-0.026		
Mar-07	22	5,245,976,330,691	238,453,469,577	0.138		
Apr-07	20	4,274,660,745,896	213,733,037,295	-0.109		

May-07	22	5,173,409,122,483	235,154,960,113	0.096		
Jun-07	21	5,589,955,070,604	266,188,336,695	0.124		
Jul-07	21	5,941,510,339,617	282,929,063,791	0.061		
Aug-07	23	7,715,893,065,459	335,473,611,542	0.170		
Sep-07	19	4,806,887,798,516	252,994,094,659	-0.282		
Oct-07	23	6,501,037,858,934	282,653,819,954	0.111		
Nov-07	21	7,175,404,886,442	341,685,946,973	0.190		
Dec-07	20	5,512,258,179,521	275,612,908,976	-0.215		
Jan-08	21	7,996,757,181,265	380,797,961,013	0.323		
Feb-08	20				390,166,745,447	7,803,334,908,936
Mar-08	20				399,766,030,385	7,995,320,607,691
Apr-08	22				409,601,486,837	9,011,232,710,417
May-08	21				419,678,925,340	8,813,257,432,139
Jun-08	21				430,004,299,385	9,030,090,287,086
Jul-08	22				440,583,708,939	9,692,841,596,650
Aug-08	21				451,423,404,044	9,479,891,484,931
Sep-08	21				462,529,788,516	9,713,125,558,836

[FR Doc. E8–4335 Filed 3–5–08; 8:45 am]
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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57401; File No. SR–Amex–2008–12]

Self-Regulatory Organizations; American Stock Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change, as Modified by Amendment No. 2 Thereto, Relating to the Exchange's Options Fee Cap Pilot Program for Dividend Strategies, Merger Spreads, and Short Stock Interest Spreads

February 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 February 20, 2008, the American Stock Exchange, LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On February 21, 2008, the Exchange filed Amendment No. 1 to the proposal. The Exchange withdrew Amendment No. 1 on February 22, 2008, and submitted Amendment No. 2 on February 27, 2008.[3] Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A),[4] and Rule 19b–4(f)(2) thereunder,[5] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Amex proposes to extend the Fee Cap Pilot Program for dividend strategies, merger spreads, and short stock interest spreads (the ''Fee Cap Program'') until February 1, 2009. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.amex.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, Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposal. The text of these statements may be examined at the places specified in Item IV below. Amex 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 extend the current Fee Cap Program from February 19, 2008 through February 1, 2009. The current Fee Cap Program expired on February 1, 2008.

The Fee Cap Program provides that specialists, registered options traders, non-member market makers, firms, and member and non-member broker-dealers option transaction, comparison and floor brokerage fees are limited to an aggregate fee of $100 for all dividend strategies, merger spreads, and short stock interest spreads executed on the same trading day in the same option class.[6] Additionally, such fees are also limited to $12,500 per month per initiating firm.

To date, the Exchange believes that the current Fee Cap Program has been beneficial, and submits that an extension through February 1, 2009 is warranted. The Exchange asserts that the Fee Cap Program may increase the trading opportunities for members and provide additional business opportunities for the Exchange.

Accordingly, the proposal seeks to extend the pilot through February 1, 2009.

2. Statutory Basis

The Exchange submits that the proposed fee change is consistent with Section 6(b)(4) of the Act[7] regarding the equitable allocation of reasonable dues, fees, and other charges among exchange members and other persons using exchange facilities. The Exchange believes that the proposed extension of the current Fee Cap Program is beneficial to market participants by providing additional trading opportunities at an efficient cost.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 2 deleted the references in the original filing to the retroactive application of the Fee Cap Pilot Program from February 1, 2008 through February 19, 2008.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(2).

[6] These fees are charged only to Exchange members.

[7] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [8] and subparagraph (f)(2) of Rule 19b–4 thereunder,[9] since it establishes or changes a due, fee or other charge imposed by the Exchange. At any time within 60 days of the filing of such 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.[10]

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–Amex–2008–12 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–Amex–2008–12. 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 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 Amex. 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 No. SR–Amex–2008–12 and should be submitted on or before March 27, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4312 Filed 3–5–08; 8:45 am]

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[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] For purposes of calculating the 60-day period within which the Commission may summarily abrogate the proposed rule change under Section 19(b)(3)(C) of the Act, the Commission considers the period to commence on February 27, 2008, the date on which Amex filed Amendment No. 2. *See* 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57400; File No. SR–Amex–2007–109]

Self-Regulatory Organizations; American Stock Exchange, LLC; Order Granting Approval of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to the Trading of Exchange Traded Notes (ETNs)

February 29, 2008.

I. Introduction

On October 9, 2007, the American Stock Exchange, LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Section 107 of the Amex *Company Guide* (''Company Guide'') to permit certain index-linked securities, commodity-linked securities, and currency-linked securities to trade under the rules applicable to exchange-traded funds (''ETFs''). On January 11, 2008, the Amex submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on January 30, 2008.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposed Rule Change

The Exchange proposes to amend Sections 107D, 107E and 107F of the Company Guide to permit certain index-linked securities (''Index-Linked Securities''), commodity-linked securities (''Commodity-Linked Securities''), and currency-linked securities (''Currency-Linked Securities'') (collectively, ''Exchange-Traded Notes'' or ''ETNs'') that offer a weekly redemption feature to be traded subject to the AEMI trading rules specific to ETFs.

Background

Securities listed pursuant to Section 107 of the *Company Guide* (''Section 107 Securities'') are debt securities of an issuer that typically provide for a cash payment at maturity, or if available, upon earlier redemption (such as a weekly redemption feature) at the holder's option, based on the performance of an underlying index or asset. Permitted underlying assets for Index-Linked Securities include domestic and international equity indexes. Commodity-Linked Securities may be based on a commodity index, basket of commodities, or single commodity while Currency-Linked Securities may similarly be linked to a currency index, basket of currencies, or single currency.

Section 107 Securities typically have a term of at least one year but not greater than 30 years. The issuer may or may not provide for periodic interest payments to holders. The holder of a Section 107 Security may or may not be fully exposed to the appreciation and/or depreciation of the underlying asset.

A number of Section 107 Securities based on securities indexes that are listed and traded on the Exchange provide for a payment amount in a multiple of the positive index return or performance, subject to a maximum gain or cap. The Exchange's generic listing standards for Section 107 Securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 57187 (January 23, 2008), 73 FR 5604.

allow for the multiple performance on the upside but prohibit payment at maturity based on a multiple of the negative performance of an underlying asset. Section 107 Securities may or may not provide for a minimum guaranteed amount to be repaid, *i.e.*, ''principal protection.''

Section 107 Securities do not give the holder a right to receive the underlying asset or any other ownership right or interest in the underlying portfolio. The current value of the underlying asset is required to be widely disseminated at least every 15 seconds during the trading day. Section 107 Securities are ''hybrid'' securities whose rates of return are largely the result of the performance of an underlying asset. In addition, prior to the listing and trading of Section 107 Securities, the Exchange typically highlights and discloses the special risks and characteristics of such security in an Information Circular.

Current Rules

Sections 107D,[4] 107E,[5] and 107F [6] of the Company Guide treat Index-Linked Securities, Commodity-Linked Securities and Currency-Linked Securities as equity instruments subject to the Exchange's AEMI trading rules for equities. The only exception to this requirement is when a Section 107 Security is listed as a bond or debt (*i.e.*, in $1,000 denominations). In such a case, the Section 107 Security is subject to Exchange rules applicable to bond or debt securities.[7]

Because the current Rules deem ETNs and other Section 107 Securities as ''equity instruments,'' the full range of AEMI trading rules specific to equities apply to all Section 107 Securities regardless of the particular structure of the Section 107 Security.

Proposal

With respect to an ETN that is continuously-offered with a weekly redemption option (such as BWV), the Exchange proposes that the AEMI trading rules applicable to ETFs (rather than equities) should equally apply to such ETN. In order to qualify, the ETN would be required to offer a weekly redemption option to holders (''Eligible ETNs''). The following rules specifically applicable to ETF trading would apply to the trading of Eligible ETNs:

- Rule 108—AEMI(c). The execution of Eligible ETN orders at the opening would be effected in the same manner as ETFs so that orders in Eligible ETNs would be executed before any broker-dealer bids or offers.
- Rule 110—AEMI(p). A Registered Trader in ETFs (including Eligible ETNs) would only actively quote ETFs traded on the same or contiguous panels for a maximum of three contiguous panels. A Registered Trader would also not actively quote more than a maximum of 15 ETFs (including Eligible ETNs). A Senior Floor Official of the Exchange may modify this restriction if a Registered Trader is able to appropriately fulfill his obligations to the market due to the level of activity in the ETFs and their proximity.
- Rule 128A—AEMI(d)(iv). Any quotation in an ETF entered into the AEMI platform by the specialist or Registered Trader while Auto-Ex is enabled that would cause the Amex Published Quote (APQ) to be locked or crossed would be automatically executed. In the case of a non-ETF Amex-listed security or a non-Nasdaq UTP equity security, quotations that are entered into the AEMI platform by the specialist while Auto-Ex is enabled that would cause the APQ to cross would be rejected. Therefore, Eligible ETNs would be automatically executed, rather than rejected, when a specialist or Registered Trader quotation causes the APQ to be locked/crossed when Auto-Ex is enabled.
- Rule 128A—AEMI(f)(iv). AEMI does not automatically execute non-ETF orders when the automatic execution of an order exceeds the price change parameters of the ''1%, 2, 1, ½ point'' rule. This rule does not apply to ETFs and would accordingly not apply to the trading of Eligible ETNs.
- Rule 131—AEMI(o). AEMI rejects ''too marketable'' non-ETF stop and stop limit orders. ''Too marketable'' is defined as a buy stop order received during the regular trading session with a stop price equal to the bid or lower, or a sell stop order received during the regular trading session with a stop price equal to the offer or higher. ETF stop orders that are ''too marketable'' are executed by AEMI under this Rule, and accordingly, Eligible ETN stop orders would similarly be executed.
- Rule 131—AEMI(r). AEMI does not accept electronic cross orders for non-ETFs and non-Nasdaq UTP securities. As a result, electronic cross orders are acceptable only for ETFs. As proposed, electronic cross orders for Eligible ETNs would be acceptable in AEMI.
- Rule 154—AEMI(c)(i). The Stop Order Rule requires floor official approval prior to the specialist electing a stop order by selling to the bid/buying on the offer. Prior floor official approval is not required for ETFs and would similarly not apply to Eligible ETNs.
- Rule 154—AEMI(c)(ii). Stop and stop limit orders in ETFs are elected by a quotation, although such orders in non-ETFs are not. Accordingly, stop and stop limit orders in Eligible ETNs would similarly be elected by quotation, pursuant to this rule.
- Rule 154—AEMI(e). Maximum price variation requirements are set forth in Rule 154—AEMI(e) (also known as the ''1%–2, 1, .5 Point Rule). This Rule specifically provides that it does not apply to the trading of ETFs. Accordingly, Rule 154—AEMI(e) would similarly not apply to Eligible ETNs.
- Commentary .03 to Rule 170—AEMI. A specialist quotation, made for his own account, should be such that a transaction effected at his quoted price or within the quoted spread, whether having the effect of reducing or increasing the specialist's position, would bear a proper relation, in the case of ETFs or other derivatively-based securities, to the value of underlying or related securities. Eligible ETNs would similarly be subject to this requirement.
- Commentary .11 to Rule 170—AEMI. Commentary .11 to Rule 170—AEMI specifically exempts ETFs from the stabilization requirements. Accordingly, Eligible ETNs would similarly be exempt.
- Rule 206—AEMI. This Rule prohibits a specialist from crossing the market for the purpose of electing odd-lots and requires floor official approval in various circumstances for non-ETFs. The exemption for ETFs would similarly apply to Eligible ETNs.

Eligible ETNs would also be subject to the same parity allocation as currently exists for ETFs and other equity-traded products that are not listed stocks, UTP stocks, or closed-end funds.

III. Discussion

After careful consideration, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange [8] and, in particular, the requirements of Section 6(b) of the Act [9] and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the

[4] *See* Securities Exchange Act Release No. 51563 (April 15, 2005), 70 FR 21257 (April 25, 2005) (SR–Amex–2005–001).

[5] *See* Securities Exchange Act Release No. 55794 (May 22, 2007), 72 FR 29558 (May 29, 2007) (SR–Amex–2007–45).

[6] *Id.*

[7] *Id.*

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b).

Act,[10] in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transaction in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Commission believes that the market price of Eligible ETNs should exhibit a strong correlation to the performance of the relevant underlying asset, since holders of such securities will be unlikely to sell them for less than their redemption value if they have a weekly right to be redeemed for their full value. This weekly redemption feature is similar to the daily redemption feature available in ETFs. In addition, Eligible ETNs are typically continuously offered, on a daily basis, so that the issuer would have the ability to issue new securities from time to time at market prices. This process is similar to the manner in which ETFs are continuously offered via the creation/redemption process in Creation Unit aggregations (*i.e.*, 50,000 shares).

Accordingly, the Commission believes the proposed rule change is consistent with the Act in permitting Eligible ETNs to trade subject to the Exchange's AEMI trading rules for ETFs.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (SR–Amex–2007–109), as modified, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4315 Filed 3–5–08; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57406; File No. SR–DTC–2007–06]

Self-Regulatory Organizations; The Depository Trust Company; Order Approving Proposed Rule Change To Modify the Hearing Procedures Afforded to Interested Persons for Membership and Harmonize Them With Similar Rules of Its Affiliates

February 29, 2008.

I. Introduction

On April 30, 2007, the Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–DTC–2007–06 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] The proposed rule change was published for comment in the **Federal Register** on December 6, 2007.[2] No comment letters were received on the proposal. This order approves the proposal.

II. Description

The proposed rule change (1) modifies DTC's rules regarding hearing procedures afforded to Interested Persons[3] and (2) where practicable or beneficial, harmonizes such rules with similar rules of DTC's affiliates, the Fixed Income Clearing Corporation (''FICC'') and the National Securities Clearing Corporation (''NSCC'').[4]

A. Minor Rule Violation Plan

In 1984, the Commission adopted amendments to Rule 19d–1(c) under the Act[5] that allow self-regulatory organizations with Commission approval to adopt plans for the disposition of minor violations of rules.[6]

Currently under DTC's rules, an Interested Person subject to disciplinary action has a right to a hearing before a panel selected by the Chairman of the Board from a pool of persons that are employed by or are partners of DTC's participants. Because some rule violations are not sufficiently serious to merit Board review, DTC is adopting a Minor Rule Violation Plan within the meaning of Rule 19d–1(c)(2) under the Act for those rule violations DTC deems minor. Consistent with Rule 19d–1(c)(2) under the Act, DTC is designating as minor rule violations those rule violations for which a fine may be assessed in an amount not to exceed $5,000. If an Interested Person disputes a fine imposed by DTC by filing a written request for hearing and a written statement setting forth, among other things, the action or proposed action with respect to which the hearing is being requested and the basis for objection to such action, DTC management would have the authority to waive the fine. DTC management would notify the Board of Directors or a Committee authorized by the Board of Directors of its determination to waive the fine and would provide the reasons for the waiver. The Board or Committee could in its discretion decide to reinstate any fine waived by DTC management. If DTC management were not to waive the fine, the Interested Person could appeal the decision to a panel comprised of DTC officers (''Minor Rule Violation Panel'').

B. Hearings for All Other Violations and Minor Rule Violation Appeals

For matters involving (1) an alleged violation of a DTC rule for which a fine in an amount of over $5,000 is assessed, (2) applicants for membership, (3) other disciplinary actions to which the Minor Rule Violation Plan would not apply, or (4) for appeals from a Minor Rule Violation Panel decision adverse to an Interested Person, the Interested Person is entitled to a hearing before a panel selected by the Chairman of the Board from a pool of persons that are employed by or are partners of participants. Members of the pool are appointed by the Board or by the Chairman. Decisions of the panel are final; however, the full Board of Directors retains the right to modify any sanction or reverse any decision of the panel that is adverse to the Interested Person.

Currently with respect to hearings, an Interested Person is afforded the opportunity to be heard and may be represented by counsel if desired. A record is kept of the hearing, and at the discretion of the panel, the associated cost may be charged in whole or part to the Interested Person in the event that the decision is adverse to the Interested Person. The Interested Person is advised of the panel's decision within ten

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 56863 (Nov. 29, 2007), 72 FR 68920.

[3] An Interested Person is defined by DTC's Rules as a Participant, Pledgee, or applicant to become a Participant or Pledgee, or issuer of a Security. Rule 22, Section 1.

[4] FICC and NSCC have filed similar proposed rule changes. Securities Exchange Act Release No. 56864 (Nov. 29, 2007), 72 FR 68922, Securities Exchange Act Release No. 57405 (Feb. 29, 2008) [SR–FICC–2007–06]. Securities Exchange Act Release No. 56865 (Nov. 29, 2007), 72 FR 68930, Securities Exchange Act Release No. 57404 (Feb. 29, 2008) [SR–NSCC–2007–06].

[5] 17 CFR 240.19d–1(c).

[6] Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984) [File No. S7–983A].

business days after the conclusion of the hearing. These procedures would also apply with respect to the Minor Rule Violation Plan.

C. Administrative Changes: Uniformity of Time Frames

The rule changes will implement uniform time periods among DTC, FICC, and NSCC governing actions an Interested Person would be required to take in order to request a hearing.[7] Under the rule change, an Interested Person has five business days from the date on which DTC first informs it of a sanction or a denial of membership in which to request a hearing.

Within seven business days, or three business days in the case of a summary action taken against the Interested Person, after filing a request for a hearing with DTC, the Interested Person is required to submit to DTC a clear and concise written statement setting forth the action or proposed action of DTC with respect to which the hearing is requested, the basis for objection to such action, whether the Interested Person intends to attend the hearing, and whether the Interested Person chooses to be represented by counsel at the hearing.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, the Commission believes the proposal is consistent with the requirements of Section 17A(b)(3)(F),[8] which, among other things, requires that the rules of a clearing agency are designed to remove impediments to and perfect the mechanisms of a national system for the prompt and accurate clearance and settlement of securities transactions and with the requirements of Section 17A(b)(3)(H)[9] which, among other things, requires that the rules of a clearing agency provide a fair procedure with respect to the disciplining of participants and the denial of participation to any person seeking to be a participant. The Commission finds that the proposed rule change, which harmonizes DTC's hearing procedure rules with those of FICC and NSCC and which adopts a Minor Rule Violation Plan, is consistent with those statutory obligations.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[10] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[11] that the proposed rule change (File No. SR–DTC–2007–06) be, and hereby is, approved.[12]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4342 Filed 3–5–08; 8:45 am]

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[7] Except that FICC and NSCC rules impose an accelerated deadline for a member or applicant to request a hearing in the case of summary action taken against the member or applicant. A summary action is an action taken prior to a hearing to determine the propriety of the action.

[8] 15 U.S.C. 78q–1(b)(3)(F).

[9] 15 U.S.C. 78q–1(b)(3)(H).

[10] 15 U.S.C. 78q–1.

[11] 15 U.S.C. 78s(b)(2).

[12] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57405; File No. SR–FICC–2007–06]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Order Approving Proposed Rule Change To Modify the Hearing Procedures Afforded to Members and Applicants for Membership and Harmonize Them With Similar Rules of Its Affiliates

February 29, 2008.

I. Introduction

On April 30, 2007, the Fixed Income Clearing Corporation (''FICC'') filed with the Securities and Exchange Commission (''Commission''), and on July 24, 2007 amended[1] proposed rule change SR–FICC–2007–06 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[2] The proposed rule change was published for comment in the **Federal Register** on December 6, 2007.[3] No comment letters were received on the proposal. This order approves the proposal.

II. Description

The proposed rule change (1) modifies the rules of FICC's Government Securities Division (''GSD'') and Mortgage-Backed Securities Division (''MBSD'') (GSD and MBSD are collectively referred to as the ''Divisions''), including the EPN rules of MBSD, regarding hearing procedures afforded to members and applicants for membership and (2) where practicable or beneficial, harmonizes such rules with similar rules of FICC's affiliates, The Depository Trust Company (''DTC'') and the National Securities Clearing Corporation (''NSCC'').[4]

A. Minor Rule Violation Plan

In 1984, the Commission adopted amendments to Rule 19d–1(c) under the Act[5] that allow self-regulatory organizations with Commission approval to adopt plans for the disposition of minor violations of rules.[6]

Currently under each Division's rules, a member or applicant subject to disciplinary action has a right to a hearing before a panel comprised of members of FICC's Board of Directors regardless of the severity of the action for which the member or applicant is being disciplined.[7] Because some rule violations are not sufficiently serious to merit Board review, FICC is adopting a Minor Rule Violation Plan within the meaning of Rule 19d–1(c)(2) under the Act for those rule violations FICC deems minor. Consistent with Rule 19d–1(c)(2) under the Act, FICC is designating as minor rule violations those rule violations for which a fine may be assessed in an amount not to exceed $5,000. If a member disputes a fine imposed by FICC by filing a written request for hearing and a written statement setting forth, among other things, the action or proposed action with respect to which the hearing is being requested and the basis for objection to such action, FICC management would have the authority to waive the fine. FICC management would notify the Board of Directors or a Committee authorized by the Board of Directors of its determination to waive the fine and would provide the reasons for the waiver. The Board or Committee could in its discretion decide to

[1] The amendment corrected a typographical error in the proposed rule text.

[2] 15 U.S.C. 78s(b)(1).

[3] Securities Exchange Act Release No. 56864 (Nov. 29, 2007), 72 FR 68922.

[4] DTC and NSCC have filed similar proposed rule changes. Securities Exchange Act Release No. 56863 (Nov. 29, 2007), 72 FR 68920, Securities Exchange Act Release No. 57406 (Feb. 29, 2008) [SR–DTC–2007–06]. Securities Exchange Act Release No. 56865 (Nov. 29, 2007), 72 FR 68930, Securities Exchange Act Release No. 57404 (Feb. 29, 2008) [SR–NSCC–2007–06].

[5] 17 CFR 240.19d–1(c).

[6] Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984) [File No. S7–983A].

[7] MBSD Article V, Rule 7 (''Appeals''); EPN Article X, Rule 7 (''Appeals''); and GSD Rule 37 (''Hearing Procedures'').

reinstate any fine waived by FICC management. If FICC management were not to waive the fine, the member could appeal the decision to a panel comprised of FICC officers (''Minor Rule Violation Panel'').

B. Hearings for All Other Violations and Minor Rule Violation Appeals

For matters involving (1) an alleged violation of a GSD or MBSD rule for which a fine in an amount of over $5,000 is assessed, (2) applicants for membership, (3) other disciplinary actions to which the Minor Rule Violation Plan would not apply, or (4) for appeals from a Minor Rule Violation Panel decision adverse to a member or applicant, the member or applicant is entitled to a hearing before a panel comprised of three individuals of the FICC Board of Directors or their designees appointed by the Chairman of the FICC Board. Decisions of the panel are final; however, the full Board of Directors retains the right to modify any sanction or reverse any decision of the panel that is adverse to the member or applicant.

Currently with respect to hearings, a member or applicant is afforded the opportunity to be heard and may be represented by counsel if desired. A record is kept of the hearing, and at the discretion of the panel, the associated cost may be charged in whole or part to the member or applicant in the event that the decision is adverse to the member or applicant. The member or applicant is advised of the panel's decision within ten business days after the conclusion of the hearing. These procedures would also apply with respect to the Minor Rule Violation Plan.

C. Administrative Changes: Uniformity of Time Frames

The rule changes will implement uniform time periods for the Divisions and among FICC, DTC, and NSCC governing actions a member or applicant would be required to take in order to request a hearing.[8] Currently, the deadlines a member or applicant must adhere to in order to request a hearing vary between the Divisions. Under the rule change, a member or applicant has five business days, or two business days in the case of a summary action taken against the member or applicant pursuant to Rule 21 or 22,[9] from the date on which FICC first informs it of a sanction or a denial of membership in which to request a hearing.

Within seven business days, or three business days in the case of a summary action taken against the member or applicant, after filing a request for a hearing with FICC, the member or applicant is required to submit to FICC a clear and concise written statement setting forth the action or proposed action of FICC with respect to which the hearing is requested, the basis for objection to such action, whether the member or applicant intends to attend the hearing, and whether the member or applicant chooses to be represented by counsel at the hearing.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, the Commission believes the proposal is consistent with the requirements of Section 17A(b)(3)(F),[10] which, among other things, requires that the rules of a clearing agency are designed to remove impediments to and perfect the mechanisms of a national system for the prompt and accurate clearance and settlement of securities transactions and with the requirements of Section 17A(b)(3)(H)[11] which, among other things, requires that the rules of a clearing agency provide a fair procedure with respect to the disciplining of participants and the denial of participation to any person seeking to be a participant. The Commission finds that the proposed rule change, which harmonizes FICC's hearing procedure rules with those of DTC and NSCC and which adopts a Minor Rule Violation Plan, is consistent with those statutory obligations.

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[12] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR–FICC–2007–06) be, and hereby is, approved.[14]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4341 Filed 3–5–08; 8:45 am]

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[8] DTC rules do not impose an accelerated deadline for an Interested Person to request a hearing in the case of summary action taken against the Interested Person. A summary action is an action taken prior to a hearing to determine the propriety of the action.

[9] Examples of a summary action are a suspension of a member or restriction of a member's access to services as described in Rule 21, Section 1 (''Restrictions on Access to Services'').

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78q–1(b)(3)(H).

[12] 15 U.S.C. 78q–1.

[13] 15 U.S.C. 78s(b)(2).

[14] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57397; File No. SR–ISE–2008–13]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

February 28, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 11, 2008, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the ISE. The ISE has designated this proposal as one establishing or changing a due, fee, or other charge applicable only to a member under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) 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 ISE is proposing to amend its Schedule of Fees to establish fees for transactions in options on five Premium Products.[5] The text of the proposed rule change is available at the ISE, at the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] ''Premium Products'' is defined in the Schedule of Fees as the products enumerated therein.

Commission's Public Reference Room, and on the ISE's Web site (*http://www.iseoptions.com/legal/proposed_rule_changes.asp*).

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 ISE included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Purpose*

The Exchange is proposing to amend its Schedule of Fees to establish fees for transactions in options on the UltraShort FTSE/Xinhua China 25 ProShares (''FXP''),[6] UltraShort MSCI Emerging Markets ProShares (''EEV''),[7] iShares Russell 1000 Growth Index Fund (''IWF''),[8] SPDR S&P Retail Select ETF (''XRT''),[9] and The Market Vectors—Agribusiness ETF (''MOO'').[10] The Exchange represents that FXP, EEV, IWF, XRT and MOO are eligible for options trading because they constitute ''Exchange-Traded Fund Shares,'' as defined by ISE Rule 502(h).

All of the applicable fees covered by this filing are identical to fees charged by the Exchange for all other Premium Products. Specifically, the Exchange is proposing to adopt an execution fee and a comparison fee for all transactions in options on FXP, EEV, IWF, XRT and MOO.[11] The amount of the execution fee and comparison fee for products covered by this filing shall be $0.15 and $0.03 per contract, respectively, for all Public Customer Orders [12] and Firm Proprietary orders. The amount of the execution fee and comparison fee for all ISE Market Maker transactions shall be equal to the execution fee and comparison fee currently charged by the Exchange for ISE Market Maker transactions in equity options.[13] Finally, the amount of the execution fee and comparison fee for all non-ISE Market Maker transactions shall be $0.37 and $0.03 per contract, respectively.[14] Further, since options on FXP, EEV, IWF, XRT and MOO are multiply-listed, the Exchange's Payment for Order Flow fee shall apply to all of these products. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[15] in general, and furthers the objectives of Section 6(b)(4),[16] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[6] ''FTSE®'' is a trademark jointly owned by the London Stock Exchange PLC and The Financial Times Limited and is used by FTSE/Xinhua Index Limited (''FXI'') under license. ''Xinhua(r)'' is a trademark of Xinhua Finance Limited and is used by FXI under license. All other trademarks and service marks are the property of their respective owners. The UltraShort FTSE/Xinhua China 25 ProShares (''FXP'') are not sponsored, endorsed, issued, sold or promoted by FXI. FXI has not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on FXP or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on FXP or with making disclosures concerning options on FXP under any applicable federal or state laws, rules or regulations. FXI does not sponsor, endorse, or promote such activity by ISE and is not affiliated in any manner with ISE.

[7] ''MSCI Emerging Markets Index'' and ''MSCI'' are service marks of Morgan Stanley Capital International (''MSCI'') and have been licensed for use for certain purposes by ProFunds Trust. All other trademarks and service marks are the property of their respective owners. The UltraShort MSCI Emerging Markets ProShares (''EEV'') are not sponsored, endorsed, issued, sold or promoted by MSCI. MSCI has not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on EEV or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on EEV or with making disclosures concerning options on EEV under any applicable federal or state laws, rules or regulations. MSCI does not sponsor, endorse, or promote such activity by ISE and is not affiliated in any manner with ISE.

[8] iShares® is a registered trademark of Barclays Global Investors, N.A. (''BGI''), a wholly owned subsidiary of Barclays Bank PLC. ''Russell 1000® Growth Index'' is a trademark of Frank Russell Company (''Russell'') and has been licensed for use for certain purposes by BGI. All other trademarks and service marks are the property of their respective owners. iShares Russell 1000 Growth Index Fund (''IWF'') is not sponsored, sold or endorsed by Russell. Russell and BGI have not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on IWF or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on IWF or with making disclosures concerning options on IWF under any applicable federal or state laws, rules or regulations. Russell and BGI do not sponsor, endorse, or promote such activity by ISE and are not affiliated in any manner with ISE.

[9] ''Standard & Poor's®,'' ''S&P®,'' ''Standard & Poor's Depositary Receipts®,'' ''SPDR®'' and ''the S&P® Retail Select Industry Index,'' are trademarks of The McGraw-Hill Companies, Inc. (''McGraw-Hill''), and have been licensed for use by SSgA Fund Management, Inc., and streetTRACKS® Series Trust in connection with the listing and trading of SPDR® S&P Retail Select ETF (''XRT''). XRT is not sponsored, sold or endorsed by Standard & Poor's, (''S&P''), a division of McGraw-Hill, and S&P makes no representation regarding the advisability of investing in XRT. McGraw-Hill and S&P have not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on XRT or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on XRT or with making disclosures concerning options on XRT under any applicable federal or state laws, rules or regulations. McGraw-Hill and S&P do not sponsor, endorse, or promote such activity by ISE and are not affiliated in any manner with ISE.

[10] The Market Vectors—Agribusiness ETF (''MOO'') is distributed by Van Eck Securities Corporation and seeks to track the DAXglobal® Agribusiness Index, which is published by Deutsche Börse AG (''Deutsche Börse''). The DAXglobal® Agribusiness Index is a trademark of Deutsche Börse and is licensed for use by Van Eck Associates Corporation (''Van Eck'') in connection with MOO. Deutsche Börse does not sponsor, endorse, or promote MOO and makes no representation regarding the advisability of investing in MOO. Van Eck has not licensed or authorized ISE to (i) engage in the creation, listing, provision of a market for trading, marketing, and promotion of options on MOO or (ii) to use and refer to any of their trademarks or service marks in connection with the listing, provision of a market for trading, marketing, and promotion of options on MOO or with making disclosures concerning options on MOO under any applicable federal or state laws, rules or regulations. Van Eck does not sponsor, endorse, or promote such activity by ISE and is not affiliated in any manner with ISE.

[11] These fees will be charged only to Exchange members. Under a pilot program that is set to expire on July 31, 2008, these fees will also be charged to Linkage Principal Orders (''Linkage P Orders'') and Linkage Principal Acting as Agent Orders (''Linkage P/A Orders''). The amount of the execution fee charged by the Exchange for Linkage P Orders and Linkage P/A Orders is $0.24 per contract side and $0.15 per contract side, respectively. *See* Securities Exchange Act Release No. 56128 (July 24, 2007), 72 FR 42161 (August 1, 2007) (SR–ISE–2007–55).

[12] Public Customer Order is defined in Exchange Rule 100(a)(39) as an order for the account of a Public Customer. Public Customer is defined in Exchange Rule 100(a)(38) as a person that is not a broker or dealer in securities.

[13] The execution fee is currently between $.21 and $.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently $.03 per contract side.

[14] The amount of the execution and comparison fee for non-ISE Market Maker transactions executed in the Exchange's Facilitation and Solicitation Mechanisms is $0.16 and $0.03 per contract, respectively.

[15] 15 U.S.C. 78f.

[16] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange, it has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(2) [18] thereunder. At any time within 60 days of the filing of such 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 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 No. SR–ISE–2008–13 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2008–13. 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 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 ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2008–13 and should be submitted on or before March 27, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4311 Filed 3–5–08; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 19b–4(f)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57398; File No. SR–ISE–2007–112]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval of a Proposed Rule Change as Modified by Amendment No. 1 Thereto Relating to Obvious Errors

February 28, 2008.

On November 29, 2007, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend ISE Rule 720 (''Obvious Error Rule'' or ''Rule'') to address ''catastrophic errors.'' On January 4, 2008, the ISE submitted Amendment No. 1 to the proposed rule change. The proposed rule change, as amended, was published for comment in the **Federal Register** on January 16, 2008.[3] The Commission received no comment letters on the proposal. This order approves the proposed rule change, as amended.

The Exchange proposes to amend the Obvious Error Rule to add criteria for identifying catastrophic errors and making adjustments when they occur. The Exchange also proposes to streamline the procedure for reviewing actions taken when catastrophic errors occur.

Currently, under the Obvious Error Rule, trades that result from an obvious error may be adjusted or nullified based on objective standards set forth in the Rule. Under the Rule, whether an obvious error has occurred is determined by comparing the execution price of the option to its theoretical price and assessing whether the minimum amount of difference that is set forth in the Rule is met. The Rule requires that members notify ISE Market Control within a short time period following the execution of a trade (five minutes for market makers and 20 minutes for Electronic Access Members (''EAMs'')) if they believe the trade qualifies as an obvious error. Trades that qualify for adjustment are adjusted under the Rule to a price that matches the theoretical price plus or minus an adjustment value, which is $.15 if the theoretical value is under $3 and $.30 if the theoretical value is at or above $3. By adjusting trades above or below the theoretical price, the Rule assesses a ''penalty'' in that the adjustment price is not as favorable as the amount the party making the error would have received had it not made the error.

In some extreme situations, ISE members may not be aware of errors that result in very large losses within the notification time periods required under the Rule. The proposal will allow members experiencing catastrophic errors additional time to seek relief so that there is a greater opportunity to mitigate very large losses and reduce corresponding windfalls. In such cases, the proposal sets forth the minimum amount by which the option's execution price must differ from the theoretical price for a catastrophic error determination to occur. The proposal also sets forth the adjustment value to be used by the Exchange when it makes a catastrophic error determination.

A catastrophic error will be deemed to have occurred when the execution price of a transaction differs from the theoretical price for the option by an amount equal to at least the specified

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 57127 (January 10, 2008), 73 FR 2967 (''Notice'').

minimum amount indicated in the Rule and an adjustment would be made plus or minus the adjustment value that also is set forth in the Rule. The minimum amount by which the execution price must differ from the theoretical price and the adjustment value for catastrophic errors will be significantly higher than the thresholds required for obvious errors, which the Exchange believes will limit the application of the proposed rule to errors involving significant losses.

Under the proposal, members will have until 8:30 a.m. Eastern Time on the day following the trade to notify Market Control of a potential catastrophic error. For trades that take place in an expiring series on expiration Friday, members must notify Market Control of a potential catastrophic error by 5 p.m. Eastern Time that same day. In consideration of the extreme nature of situations that will be addressed under the catastrophic error provisions, the Exchange proposes a streamlined one-step review process where a Catastrophic Error Tribunal (''Tribunal''), comprised of two representatives from market makers and two representatives from EAMs that are unrelated to the transaction in question, will make catastrophic error determinations and adjustments.[4] In the event the Tribunal determines that a catastrophic error did not occur, the member that initiated the review will be charged $5,000 to reimburse the Exchange for the costs associated with reviewing the claim.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of Section 6(b) of the Act[5] and the rules and regulations thereunder. Specifically, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act,[6] in that the proposal is designed to prevent fraudulent and manipulative acts, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, protect investors and the public interest.

The Commission notes that, in approving proposals relating to adjustment or nullification of trades involving obvious errors, it has stated that the determination of whether an obvious error has occurred and the process for reviewing such a determination should be based on specific and objective criteria and subject to specific and objective procedures.[7] The Commission believes that the ISE's proposal provides specific and objective criteria and procedures for the Exchange to apply when members seek review of transactions involving catastrophic errors. The Commission also believes that the proposed Catastrophic Error Tribunal, which is intended to streamline the review process, and the proposed fee for unsuccessful claims are appropriate given the proposal's purpose to allow members additional time to seek relief for very significant errors.[8]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–ISE–2007–112), as amended, is hereby approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4313 Filed 3–5–08; 8:45 am]

BILLING CODE 8011–01–P

[4] In comparison, ISE Market Control makes initial obvious error determinations that can then be appealed to an Obvious Error Panel.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See, e.g.*, Securities Exchange Release Nos. 54228 (July 27, 2006), 71 FR 44066 (August 3, 2006) (SR–ISE–2006–14) (approving revisions to ISE's Obvious Error Rule) and 48097 (June 26, 2003), 68 FR 39604 (July 2, 2003) (SR–ISE–2003–10) (approving revisions to ISE's Obvious Error Rule).

[8] In approving this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57399; File No. SR–ISE–2008–10]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program To List and Trade Options on the iShares Emerging Markets Index Fund

February 28, 2008.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 21, 2008, the International Securities Exchange, LLC (''ISE'' 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 prepared substantially by ISE. ISE 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 it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

ISE proposes to extend the pilot period applicable to ISE's listing and trading of options on the iShares MSCI Emerging Markets Index Fund (''Fund''). ISE is not proposing any textual changes to its rules.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, ISE included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. ISE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On August 27, 2007, the Commission published a notice of filing and immediate effectiveness of a proposed rule change by the ISE to list and trade options on the Fund for a six month pilot period.[5] The pilot period expired on February 27, 2008. The Exchange now proposes to extend the current pilot program for an additional six month period, until August 27, 2008.

The Fund continues to meet substantially all of the listing and maintenance standards in ISE Rules 502(h) and 503(h), respectively. For the requirements that are not met, the Exchange represents that sufficient mechanisms exist that would provide the Exchange with adequate surveillance and regulatory information with respect to the Fund. Continuation of the pilot would permit the Exchange to work with the Bolsa Mexicana de

[5] *See* Securities Exchange Act Release No. 56324 (August 27, 2007), 72 FR 50426 (August 31, 2007) (SR–ISE–2007–72).

Valores (''Bolsa'') to enter into a surveillance sharing agreement.

2. Statutory Basis

The proposed rule change is consistent with the provisions of Section 6 of the Act,[6] in general, and with Section 6(b)(5) of the Act,[7] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

ISE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing 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 from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9]

A proposed rule change filed under 19b–4(f)(6) normally may not become operative prior to 30 days after the date of filing.[10] However, Rule 19b–4(f)(6)(iii) [11] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has requested that the Commission waive the 30-day operative delay. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[12] Waiver of the 30-day operative period will extend the pilot program until August 27, 2008, which would otherwise expire on February 27, 2008, and allow the ISE to continue in its efforts to obtain a surveillance agreement with Bolsa. Accordingly, the Commission hereby grants the Exchange's request and designates the proposal as operative upon filing.

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 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 No. SR–ISE–2008–10 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2008–10. 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, on official business days 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 ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2008–10 and should be submitted on or before March 27, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4314 Filed 3–5–08; 8:45 am]

BILLING CODE 8011–01–P

[6] 15 U.S.C. 78f.

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. ISE has complied with this requirement.

[11] *Id.*

[12] For purposes only of waiving the 30-day operative delay of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57404; File No. SR–NSCC–2007–06]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving Proposed Rule Change To Modify the Hearing Procedures Afforded to Members and Applicants for Membership and Harmonize Them With Similar Rules of Its Affiliates

February 29, 2008.

I. Introduction

On April 30, 2007, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule change SR–NSCC–2007–06 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] The proposed rule change was published for comment in the **Federal Register** on December 6, 2007.[2] No comment letters were received on the proposal. This order approves the proposal.

II. Description

The proposed rule change (1) modifies NSCC's rules regarding hearing procedures afforded to members and applicants for membership and (2) where practicable or beneficial,

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 56865 (Nov. 29, 2007), 72 FR 68930.

harmonizes such rules with similar rules of NSCC's affiliates, The Depository Trust Company (''DTC'') and the Fixed Income Clearing Corporation (''FICC'').[3]

A. Minor Rule Violation Plan

In 1984, the Commission adopted amendments to Rule 19d–1(c) under the Act[4] that allow self-regulatory organizations with Commission approval to adopt plans for the disposition of minor violations of rules.[5]

Currently under NSCC's rules, a member or applicant subject to disciplinary action has a right to a hearing before a panel comprised of members of NSCC's Credit and Market Risk Management Committee regardless of the severity of the action for which the member or applicant is being disciplined.[6] Because some rule violations are not sufficiently serious to merit Board review, NSCC is adopting a Minor Rule Violation Plan within the meaning of Rule 19d–1(c)(2) under the Act for those rule violations NSCC deems minor. Consistent with Rule 19d–1(c)(2) under the Act, NSCC is designating as minor rule violations those rule violations for which a fine may be assessed in an amount not to exceed $5,000. If a member disputes a fine imposed by NSCC by filing a written request for hearing and a written statement setting forth, among other things, the action or proposed action with respect to which a hearing is being requested and the basis for the objection to such action, NSCC management would have the authority to waive the fine. NSCC management would notify the Board of Directors or a Committee authorized by the Board of Directors of its determination to waive the fine and would provide the reasons for the waiver. The Board or Committee could in its discretion decide to reinstate any fine waived by NSCC management. If NSCC management were not to waive the fine, the member could appeal the decision to a panel comprised of NSCC officers (''Minor Rule Violation Panel'').

B. Hearings for All Other Violations and Minor Rule Violation Appeals

For matters involving (1) an alleged violation of an NSCC rule for which a fine in an amount of over $5,000 is assessed, (2) applicants for membership, (3) other disciplinary actions to which the Minor Rule Violation Plan would not apply, or (4) appeals from a Minor Rule Violation Panel decision adverse to a member or applicant, the member or applicant is entitled to a hearing before a panel comprised of three individuals of the NSCC Board of Directors or their designees appointed by the Chairman of the NSCC Board. Decisions of the panel are final; however, the full Board of Directors retains the right to modify any sanction or reverse any decision of the panel that is adverse to the member or applicant.

Currently with respect to hearings, a member or applicant is afforded the opportunity to be heard and may be represented by counsel if desired. A record is kept of the hearing, and at the discretion of the panel, the associated cost may be charged in whole or part to the member or applicant in the event that the decision is adverse to the member or applicant. The member or applicant is advised of the panel's decision within ten business days after the conclusion of the hearing. These procedures would also apply with respect to the Minor Rule Violation Plan.

C. Administrative Changes: Uniformity of Time Frames

The rule changes will implement uniform time periods among NSCC, DTC, and FICC governing actions a member or applicant would be required to take in order to request a hearing.[7] Under the rule change, a member or applicant has five business days, or two business days in the case of a summary action taken against the member or applicant pursuant to Rule 46,[8] from the date on which NSCC first informs it of a sanction or a denial of membership in which to request a hearing.

Within seven business days, or three business days in the case of a summary action taken against the member or applicant, after filing a request for a hearing with NSCC, the member or applicant is required to submit to NSCC a clear and concise written statement setting forth the action or proposed action of NSCC with respect to which the hearing is requested, the basis for objection to such action, whether the member or applicant intends to attend the hearing, and whether the member or applicant chooses to be represented by counsel at the hearing.

D. Pending Changes From NSCC Rule Filing SR–NSCC–2006–17

The current time frame for an applicant or member to request a hearing appears in the following rules: Rule 2 (''Members''), Rule 3 (''Lists to Be Maintained''), Rule 51 (''Fund Member''), Rule 54 (''Settling Bank Only Members''), Rule 56 (''Insurance Carrier/Retirement Services Member''), and Rule 60 (''TPA Member'').[9] Each of those rules is pending deletion as part of rule filing SR–NSCC–2006–17. Accordingly, since this filing is approved prior to the approval of SR–NSCC–2006–17, the time frame for an applicant or member to request a hearing that appears in those rules is also deleted.

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a registered clearing agency. In particular, the Commission believes the proposal is consistent with the requirements of Section 17A(b)(3)(F),[10] which, among other things, requires that the rules of a clearing agency are designed to remove impediments to and perfect the mechanisms of a national system for the prompt and accurate clearance and settlement of securities transactions and with the requirements of Section 17A(b)(3)(H)[11] which, among other things, requires that the rules of a clearing agency provide a fair procedure with respect to the disciplining of participants and the denial of participation to any person seeking to be a participant. The Commission finds that the proposed rule change, which harmonizes NSCC's hearing procedure rules with those of DTC and FICC and which adopts a Minor Rule Violation Plan, is consistent with those statutory obligations.

[3] DTC and FICC have filed similar proposed rule changes. Securities Exchange Act Release No. 56863 (Nov. 29, 2007), 72 FR 68920, Securities Exchange Act Release No. 57406 (Feb. 29, 2008) [SR–DTC–2007–06]. Securities Exchange Act Release No. 56864 (Nov. 29, 2007), 72 FR 68922, Securities Exchange Act Release No. 57405 (Feb. 29, 2008) [SR–FICC–2007–06].

[4] 17 CFR 240.19d–1(c).

[5] Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984) [File No. S7–983A].

[6] If the action or proposed action of NSCC as to which the hearing relates has been taken or has been proposed to be taken by the Credit and Market Risk Management Committee, the members of the panel shall be drawn from members of the Executive Committee of NSCC's Board of Directors. *See* Rule 37 (Hearing Procedures), Section 2.

[7] DTC rules do not impose an accelerated deadline for an Interested Person to request a hearing in the case of summary action taken against the Interested Person. A summary action is an action taken prior to a hearing to determine the propriety of the action.

[8] Examples of a summary action are a suspension of a member or restriction of a member's access to services as described in Rule 46 (''Restrictions on Access to Services'').

[9] The current time frame for an applicant or member to request a hearing also appears in Rule 45 (''Notices''). This rule filing deletes that reference also.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 15 U.S.C. 78q–1(b)(3)(H).

IV. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[12] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[13] that the proposed rule change (File No. SR–NSCC–2007–06) be, and hereby is, approved.[14]

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–4340 Filed 3–5–08; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to Waive the Nonmanufacturer Rule for All Other Miscellaneous Electrical Equipment and Component Manufacturing.

SUMMARY: The U. S. Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for All Other Miscellaneous Electrical Equipment and Component Manufacturing. According to the request, no small business manufacturers supply these classes of products to the Federal government. If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small businesses or SBA's 8(a) Business Development Program.

DATES: Comments and source information must be submitted March 21, 2008.

ADDRESSES: You may submit comments and source information to Pamela M. McClam, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Pamela M. McClam, Program Analyst, by telephone at (202) 205–7408; by FAX at (202) 481–4783; or by e-mail at *Pamela.McClam@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for All Other Miscellaneous Electrical Equipment and Component Manufacturing. North American Industry Classification System (NAICS) code 335999 product number (6210).

The public is invited to comment or provide source information to SBA on the proposed waivers of the Nonmanufacturer Rule for this class of NAICS code within 15 days after date of publication in the **Federal Register**.

Arthur E. Collins, Jr.,

Director for Government Contracting.

[FR Doc. E8–4372 Filed 3–5–08; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 6116]

Bureau of Educational and Cultural Affairs (ECA) Request for Grant Proposals: Ngwang Choepel Fellows Program

Announcement Type: New Grant.

Funding Opportunity Number: ECA/PE/C/WHA/EAP–08–53.

Catalog of Federal Domestic Assistance Number: 00.000.

Key Dates:

Application Deadline: May 9, 2008.

Executive Summary: The Office of Citizen Exchanges welcomes proposals in an open competition for the Ngwang Choepel Fellows program that focus on the themes of Cultural Preservation and Economic Self-sufficiency. The Office seeks proposals that train and assist Tibetans living in Tibetan communities in China by providing professional experience and exposure to American society and culture through internships, workshops and other learning activities hosted by U.S. institutions. The experiences will also provide Americans the opportunity to learn about Tibetan culture and the social and economic challenges that Tibetans face today. Applicants may propose programming for Tibetans who travel to the United States and/or for Americans who travel to Tibet.

Programs designed for participants from Tibet should not be simply academic in nature, but should provide practical, hands-on experience in U.S. public or private sector settings that may be adapted to an individual's institution upon return home. Proposals may combine elements of professional enrichment, job shadowing and internships appropriate to the language ability and interests of the participants. Americans who travel to Tibet will be expected to participate in activities that further the goals and objectives of the Tibet Policy Act of 2002, as described below.

Applicants should ensure that their proposals comply with the Tibet Policy Act of 2002, particularly that their projects promote in all stages the active participation of Tibetans. Section 616(d) of the Foreign Relations Authorization Act, 2003 (Pub. L. 107–228) defines the Tibet Project Principles:

(d) Tibet Project Principles—Projects in Tibet supported by international financial institutions, other international organizations, nongovernmental organizations, and the United States entities referred to in subsection (c), should (1) Be implemented only after conducting a thorough assessment of the needs of the

[12] 15 U.S.C. 78q–1.

[13] 15 U.S.C. 78s(b)(2).

[14] In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

Tibetan people through field visits and interviews; (2) Be preceded by cultural and environmental impact assessments; (3) Foster self-sufficiency and self-reliance of Tibetans; (4) Promote accountability of the development agencies to the Tibetan people and active participation of Tibetans in all project stages; (5) Respect Tibetan culture, traditions, and the Tibetan knowledge and wisdom about their landscape and survival techniques; (6) Be subject to on-site monitoring by the development agencies to ensure that the intended target group benefits; (7) Be implemented by development agencies prepared to use Tibetan as the working language of the projects; (8) Neither provide incentive for, nor facilitate the migration and settlement of, non-Tibetans into Tibet; and (9) Neither provide incentive for, nor facilitate the transfer of ownership of, Tibetan land or natural resources to non-Tibetans.

I. Funding Opportunity Description

Authority

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program above is provided through legislation.

Purpose

The Office of Citizen Exchanges welcomes proposals that focus on the themes of Cultural Preservation and Economic Self-sufficiency under this competition for FY–2008 Ngwang Choepel Fellows program.

Cultural Preservation

Projects under this theme should aim to assist Tibetans in preserving their cultural heritage through activities designed to reduce the pillage of irreplaceable cultural artifacts, and to create opportunities that develop long-term strategies for preserving cultural property through training and conservation, museum development, and education. Projects might include the preservation of cultural sites; objects in a site, museum or similar institution; or forms of traditional cultural expression. The proposals may encompass topics such as museum needs, historic buildings, collections, archaeological sites, rare manuscripts, language, or traditional arts, crafts, or music.

Economic Self-Sufficiency

Vocational Education

The Bureau seeks proposals that emphasize vocational training or the administration and development of vocational schools targeted towards the practical needs of Tibetan communities. Discussion of how to integrate education with economic planning, how to diversify revenue sources, and how to recruit, train and retain strong faculty would all contribute towards increased emphasis on vocational education and its importance to both Americans and Tibetans in a modern and changing economy. Vocational education may include practical training of entrepreneurs, development of Tibetan-language educational materials (such as Tibetan-English teaching guides or Tibetan-language public health education materials), or the development of distance learning technology for remote rural schools. English-language training projects that are held in China are preferred over ones that would bring Tibetans to the United States for training.

Developing Entrepreneurship

Projects under this theme should focus on the skills that Tibetans, many of whom come from rural backgrounds with rudimentary economies, need to function effectively in a modern economy (e.g. finance, accounting, and language skills). Projects should explore how the government and the private sector can help promote sustainable entrepreneurship, including access to credit, ecologically-conscious tourism policies and investment, or English language training for trade or tourism purposes. Programs that train aspiring entrepreneurs and develop micro-finance programs for them are welcome.

Sustainable Growth and Ecotourism

Exchanges funded under this theme should help American and Tibetan conservationists, tourism planners, and economic planners share their experience in managing tourism resources and development projects, particularly in ecologically fragile areas, and should contribute to increased understanding of conservation and concepts essential to responsible economic growth. Local community projects are invited in fields such as ecotourism, renewable energy, or poverty alleviation projects, including farm technology, animal husbandry, or agricultural marketing.

II. Award Information

Type of Award: Grant Award.
Fiscal Year Funds: 2008.
Approximate Total Funding: $650,000.
Approximate Number of Awards: 4.
Approximate Average Award: $162,250.
Floor of Award Range: $60,000.
Ceiling of Award Range: $162,250.
Anticipated Award Date: September 1, 2008.
Anticipated Project Completion Date: December 31, 2010.
Additional Information: Pending successful implementation of this program and the availability of funds in subsequent fiscal years, it is ECA's intent to renew grants that are awarded under this competition for two additional fiscal years before openly competing it again.

III. Eligibility Information

III.1. Eligible applicants

Applications may be submitted by public and private non-profit organizations meeting the provisions described in Internal Revenue Code section 26 U.S.C. 501(c)(3).

III.2. Cost Sharing or Matching Funds

There is no minimum or maximum percentage required for this competition. However, the Bureau encourages applicants to provide maximum levels of cost sharing and funding in support of its programs.

When cost sharing is offered, it is understood and agreed that the applicant must provide the amount of cost sharing as stipulated in its proposal and later included in an approved grant agreement. Cost sharing may be in the form of allowable direct or indirect costs. For accountability, you must maintain written records to support all costs which are claimed as your contribution, as well as costs to be paid by the Federal government. Such records are subject to audit. The basis for determining the value of cash and in-kind contributions must be in accordance with OMB Circular A–110, (Revised), Subpart C.23—Cost Sharing and Matching. In the event you do not provide the minimum amount of cost sharing as stipulated in the approved budget, ECA's contribution will be reduced in like proportion.

III.3. Other Eligibility Requirements

(a) Grants awarded to eligible organizations with less than four years of experience in conducting international programs will be limited to $60,000.

(b) *Technical Eligibility:* In addition to the requirements outlined in the Proposal Submission Instructions (PSI) technical format and instructions document, all proposals must comply with the following or they will result in your proposal being declared technically ineligible and given no further consideration in the review process.

The Office does not support proposals limited to conferences or seminars (i.e., one- to fourteen-day programs with plenary sessions, main speakers, panels, and a passive audience). It will support conferences only when they are a small part of a larger project in duration that is receiving Bureau funding from this competition.

No funding is available exclusively to send U.S. citizens to conferences or conference-type seminars overseas; nor is funding available for bringing foreign nationals to conferences or to routine professional association meetings in the United States.

The Office of Citizen Exchanges does not support academic research or faculty or student fellowships.

Applicants may not submit more than one (1) proposal for this competition. Organizations that submit proposals that exceed these limits will result in having all of their proposals declared technically ineligible, and none of the submissions will be reviewed by a State Department panel. Proposals that target countries/regions or themes not listed in the RFGP will be deemed technically ineligible.

IV. Application and Submission Information

Note: Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

IV.1. Contact Information to Request an Application Package: Please contact the Office of Citizen Exchanges, ECA/PE/C, Room 224, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone number 202–453–8164 and fax number 202–453–8169, *WrightHC@state.gov* to request. Please refer to the Funding Opportunity Number ECA/PE/C/WHA/EAP–08–53 located at the top of this announcement when making your request.

Alternatively, an electronic application package may be obtained from grants.gov. Please see section IV.3f for further information.

The Solicitation Package contains the Proposal Submission Instructions (PSI) document which consists of required application forms, and standard guidelines for proposal preparation.

Please specify Clint Wright and refer to the Funding Opportunity Number ECA/PE/C/WHA/EAP–08–53 located at the top of this announcement on all other inquiries and correspondence.

IV.2. To Download a Solicitation Package Via Internet: The entire Solicitation Package may be downloaded from the Bureau's Web site at *http://exchanges.state.gov/education/rfgps/menu.htm*, or from the Grants.gov Web site at *http://www.grants.gov*. Please read all information before downloading.

IV.3. Content and Form of Submission: Applicants must follow all instructions in the Solicitation Package. The application should be submitted per the instructions under IV.3f. ''Application Deadline and Methods of Submission'' section below.

IV.3a. You are required to have a Dun and Bradstreet Data Universal Numbering System (DUNS) number to apply for a grant or cooperative agreement from the U.S. Government. This number is a nine-digit identification number, which uniquely identifies business entities. Obtaining a DUNS number is easy and there is no charge. To obtain a DUNS number, access *http://www.dunandbradstreet.com* or call 1–866–705–5711. Please ensure that your DUNS number is included in the appropriate box of the SF–424 which is part of the formal application package.

IV.3b. All proposals must contain an executive summary, proposal narrative and budget.

Please refer to the Solicitation Package. It contains the mandatory Proposal Submission Instructions (PSI) document for additional formatting and technical requirements.

IV.3c. You must have nonprofit status with the IRS at the time of application. If your organization is a private nonprofit which has not received a grant or cooperative agreement from ECA in the past three years, or if your organization received nonprofit status from the IRS within the past four years, you must submit the necessary documentation to verify nonprofit status as directed in the PSI document. Failure to do so will cause your proposal to be declared technically ineligible.

IV.3d. Please take into consideration the following information when preparing your proposal narrative:

IV.3d.1 Adherence to All Regulations Governing the J Visa

The Office of Citizen Exchanges of the Bureau of Educational and Cultural Affairs is the official program sponsor of the exchange program covered by this RFGP, and an employee of the Bureau will be the ''Responsible Officer'' for the program under the terms of 22 CFR 62, which covers the administration of the Exchange Visitor Program (J visa program). Under the terms of 22 CFR 62, organizations receiving grants under this RFGP will be third parties ''cooperating with or assisting the sponsor in the conduct of the sponsor's program.'' The actions of grantee program organizations shall be ''imputed to the sponsor in evaluating the sponsor's compliance with'' 22 CFR part 62. Therefore, the Bureau expects that any organization receiving a grant under this competition will render all assistance necessary to enable the Bureau to fully comply with 22 CFR part 62 *et seq.*

The Bureau of Educational and Cultural Affairs places critically important emphases on the secure and proper administration of Exchange Visitor (J visa) Programs and adherence by grantee program organizations and program participants to all regulations governing the J visa program status. Therefore, proposals should explicitly state in writing that the applicant is prepared to assist the Bureau in meeting all requirements governing the administration of Exchange Visitor Programs as set forth in 22 CFR part 62. If your organization has experience as a designated Exchange Visitor Program Sponsor, the applicant should discuss their record of compliance with 22 CFR part 62 *et seq.*, including the oversight of their Responsible Officers and Alternate Responsible Officers, screening and selection of program participants, provision of pre-arrival information and orientation to participants, monitoring of participants, proper maintenance and security of forms, recordkeeping, reporting and other requirements.

The Office of Citizen Exchanges of ECA will be responsible for issuing DS–2019 forms to participants in this program.

A copy of the complete regulations governing the administration of Exchange Visitor (J) programs is available at *http://exchanges.state.gov* or from: United States Department of State, Office of Exchange Coordination and Designation, ECA/EC/ECD—SA–44, Room 734, 301 4th Street, SW.,

Washington, DC 20547, *Telephone:* (202) 203–5029, *Fax:* (202) 453–8640.

IV.3d.2 Diversity, Freedom and Democracy Guidelines. Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and disabilities. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content.

Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into your proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' the Bureau ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Public Law 106—113 requires that the governments of the countries described above do not have inappropriate influence in the selection process. Proposals should reflect advancement of these goals in their program contents, to the full extent deemed feasible.

IV.3d.3. Program Monitoring and Evaluation. Proposals must include a plan to monitor and evaluate the project's success, both as the activities unfold and at the end of the program. The Bureau recommends that your proposals include a draft survey questionnaire or other technique plus a description of a methodology to use to link outcomes to original project objectives. The Bureau expects that the grantee will track participants or partners and be able to respond to key evaluation questions, including satisfaction with the program, learning as a result of the program, changes in behavior as a result of the program, and effects of the program on institutions (institutions in which participants work or partner institutions). The evaluation plan should include indicators that measure gains in mutual understanding as well as substantive knowledge.

Successful monitoring and evaluation depend heavily on setting clear goals and outcomes at the outset of a program. Your evaluation plan should include a description of your project's objectives, your anticipated project outcomes, and how and when you intend to measure these outcomes (performance indicators). The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the easier it will be to conduct the evaluation. You should also show how your project objectives link to the goals of the program described in this RFGP.

Your monitoring and evaluation plan should clearly distinguish between program *outputs* and *outcomes*. *Outputs* are products and services delivered, often stated as an amount. Output information is important to show the scope or size of project activities, but it cannot substitute for information about progress towards outcomes or the results achieved. Examples of outputs include the number of people trained or the number of seminars conducted. *Outcomes*, in contrast, represent specific results a project is intended to achieve and is usually measured as an extent of change. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes.

We encourage you to assess the following four levels of outcomes, as they relate to the program goals set out in the RFGP (listed here in increasing order of importance):

(1) Participant satisfaction with the program and exchange experience.

(2) Participant learning, such as increased knowledge, aptitude, skills, and changed

(3) understanding and attitude. Learning includes both substantive (subject-specific) learning and mutual understanding.

(4) Participant behavior, concrete actions to apply knowledge in work or community; greater

(5) Participation and responsibility in civic organizations; interpretation and explanation of experiences and new knowledge gained; continued

(6) Contacts between participants, community members, and others.

(7) Institutional changes, such as increased collaboration and partnerships, policy reforms, new programming, and organizational improvements.

Please note: Consideration should be given to the appropriate timing of data collection for each level of outcome. For example, satisfaction is usually captured as a short-term outcome, whereas behavior and institutional changes are normally considered longer-term outcomes.

Overall, the quality of your monitoring and evaluation plan will be judged on how well it (1) specifies intended outcomes; (2) gives clear descriptions of how each outcome will be measured; (3) identifies when particular outcomes will be measured; and (4) provides a clear description of the data collection strategies for each outcome (*i.e.*, surveys, interviews, or focus groups). (Please note that evaluation plans that deal only with the first level of outcomes [satisfaction] will be deemed less competitive under the present evaluation criteria.)

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

IV.3e. Please take the following information into consideration when preparing your budget:

IV.3e.1. Applicants must submit a comprehensive budget for the entire program. The budget request may not exceed $162,250. There must be a summary budget, as well as breakdowns reflecting both administrative and program budgets. Applicants may provide separate sub-budgets for each program component, phase, location, or activity to provide clarification.

IV.3e.2. Allowable costs for the program include the following:

Travel costs: International and domestic airfares; visas; transit costs; ground transportation costs. Please note that all air travel must be in compliance with the Fly America Act. There is no charge for J–1 visas for participants in Bureau sponsored programs. Please note that Tibetan participants may not travel to the United States primarily for English language instruction.

Per Diem: For the U.S. program, organizations must use the published U.S. Federal per diem rates for individual American cities. For activities outside the United States, the published Federal per diem rates for foreign city must also be used. **Note:** U.S. escorting staff must use the published Federal per diem rates. Per diem rates may be accessed at *http://www.state.gov/www/services.html*.

Interpreters: If needed, interpreters for the U.S. program are available through the U.S. Department of State Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. Bureau grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain per diem published U.S. Federal per diem rates for individual American cities for each Department of State interpreter, as well as home-program-home air transportation of $800 per interpreter plus any U.S. travel expenses during the program. Salary expenses are

covered by the Bureau and should not be part of an applicant's proposed budget. Locally arranged interpreters with adequate skills and experience may be used by the grantee in lieu of State Department interpreters, with the same 1:4 interpreter to participant ratio. Costs associated with using their services may not exceed rates for State Department interpreters.

Book and Cultural Allowance: Foreign participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. program staff members are not eligible to receive these benefits.

Consultants: Consultants may be used to provide specialized expertise, design or manage development projects or to make presentations. Honoraria generally do not exceed $250 per day. Grantee organizations may also be used, in which case the written agreement between the prospective grantee and sub-grantee should be included in the proposal. Sub-grants should be itemized in the budget.

Room Rental: Room rental may not exceed $250 per day.

Materials development: Proposals may contain costs to purchase, develop, and translate materials for participants.

Equipment: Proposals may contain limited costs to purchase equipment crucial to the success of the program, such as computers, fax machines and copy machines. However, equipment costs must be kept to a minimum, and costs for furniture are not allowed.

Working Meal: The grant budget may provide for only one working meal during the program.

Return travel allowance: A return travel allowance of $70 for each foreign participant may be included in the budget. This may be used for incidental expenses incurred during international travel.

Health Insurance: Foreign participants will be covered under the terms of a U.S. Department of State-sponsored health insurance policy. The premium is paid by the U.S. Department of State directly to the insurance company. Applicants are permitted to included costs for travel insurance for U.S. participants in the budget.

Administrative Costs: Costs necessary for the effective administration of the program may include salaries for grantee organization employees, benefits, and other direct or indirect costs per detailed instructions in the proposal submission instructions.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

IV.3F. Application Deadline and Methods of Submission:

Application Deadline Date: May 9, 2008.

Reference Number: ECA/PE/C/WHA/EAP–08–53.

Methods of Submission:

Applications may be submitted in one of two ways:

(1) In hard-copy, via a nationally recognized overnight delivery service (i.e., DHL, Federal Express, UPS, Airborne Express, or U.S. Postal Service Express Overnight Mail, etc.), or

(2) electronically through *http://www.grants.gov.*

Along with the Project Title, all applicants must enter the above Reference Number in Box 11 on the SF–424 contained in the mandatory Proposal Submission Instructions (PSI) of the solicitation document.

IV.3f.1 Submitting Printed Applications

Applications must be shipped no later than the above deadline. Delivery services used by applicants must have in-place, centralized shipping identification and tracking systems that may be accessed via the Internet and delivery people who are identifiable by commonly recognized uniforms and delivery vehicles. Proposals shipped on or before the above deadline but received at ECA more than seven days after the deadline will be ineligible for further consideration under this competition. Proposals shipped after the established deadlines are ineligible for consideration under this competition. ECA will not notify you upon receipt of application. It is each applicant's responsibility to ensure that each package is marked with a legible tracking number and to monitor/confirm delivery to ECA via the Internet. Delivery of proposal packages may not be made via local courier service or in person for this competition. Faxed documents will not be accepted at any time. Only proposals submitted as stated above will be considered.

Important note: When preparing your submission please make sure to include one extra copy of the completed SF–424 form and place it in an envelope addressed to ''ECA/EX/PM''.

The original and ten copies of the application should be sent to: U.S. Department of State, SA–44, Bureau of Educational and Cultural Affairs, Ref.: ECA/PE/C/WHA/EAP–08–53, Program Management, ECA/EX/PM, Room 534. 301 4th Street, SW., Washington, DC 20547.

(Include following language re: disk submission only if proposals will be forwarded to embassies. If post input is not necessary, delete language.)

Applicants submitting hard-copy applications must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal in text (.txt) or Microsoft Word format on a PC-formatted disk. The Bureau will provide these files electronically to the appropriate Public Affairs Section(s) at the U.S. embassy(ies) for its(their) review.

IV.3f.2 Submitting Electronic Applications

Applicants have the option of submitting proposals electronically through Grants.gov (*http://www.grants.gov*). Complete solicitation packages are available at Grants.gov in the ''Find'' portion of the system. Please follow the instructions available in the 'Get Started' portion of the site (*http://www.grants.gov/GetStarted*). Several of the steps in the Grants.gov registration process could take several weeks. Therefore, applicants should check with appropriate staff within their organizations immediately after reviewing this RFGP to confirm or determine their registration status with Grants.gov. Once registered, the amount of time it can take to upload an application will vary depending on a variety of factors including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you not wait until the application deadline to begin the submission process through Grants.gov.

Direct all questions regarding Grants.gov registration and submission to: Grants.gov Customer Support

Contact Center Phone: 800–518–4726.

Business Hours: Monday–Friday, 7a.m.–9p.m. Eastern Time

E-mail: support@grants.gov

Applicants have until midnight (12:00 a.m.), Washington, DC time of the closing date to ensure that their entire application has been uploaded to the Grants.gov site. There are no exceptions to the above deadline. Applications uploaded to the site after midnight of the application deadline date will be automatically rejected by the grants.gov system, and will be technically ineligible.

Applicants will receive a confirmation e-mail from grants.gov upon the successful submission of an application. ECA will not notify you upon receipt of electronic applications.

It is the responsibility of all applicants submitting proposals via the Grants.gov web portal to ensure that proposals have been received by Grants.gov in their entirety, and ECA bears no responsibility for data errors resulting from transmission or conversion processes.

IV.3g. Intergovernmental Review of Applications: Executive Order 12372 does not apply to this program.

V. Application Review Information

V.1. Review Process

The Bureau will review all proposals for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. All eligible proposals will be reviewed by the program office, as well as the Public Diplomacy section overseas, where appropriate. Eligible proposals will be subject to compliance with Federal and Bureau regulations and guidelines and forwarded to Bureau grant panels for advisory review. Proposals may also be reviewed by the Office of the Legal Adviser or by other Department elements. Final funding decisions are at the discretion of the Department of State's Assistant Secretary for Educational and Cultural Affairs. Final technical authority for grant awards resides with the Bureau's Grants Officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

(1) *Program Planning and Ability to Achieve Objectives:* Program objectives should be stated clearly and should reflect the applicant's expertise in the subject area and region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in the target country/countries. A detailed agenda and relevant work plan should explain how objectives will be achieved and should include a timetable for completion of major tasks. The substance of workshops, internships, seminars and/or consulting should be described in detail. Sample training schedules should be outlined. Responsibilities of proposed in-country partners should be clearly described.

(2) *Institutional Capacity:* Proposals should include (1) the institution's mission and date of establishment; (2) detailed information about proposed in-country partner(s) and the history of the partnership; (3) an outline of prior awards-U.S. government and/or private support received for the target theme/country/region; and (4) descriptions of experienced staff members who will implement the program.

The proposal should reflect the institution's expertise in the subject area and knowledge of the conditions in the target country/countries. Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Bureau grants as determined by Bureau Grants Staff. The Bureau will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program's goals. The Bureau strongly encourages applicants to submit letters of support from proposed in-country partners.

(3) *Cost Effectiveness and Cost Sharing:* Overhead and administrative costs in the proposal budget, including salaries, honoraria and subcontracts for services, should be kept to a minimum. Priority will be given to proposals whose administrative costs are less than thirty (30) per cent of the total funds requested from the Bureau. Applicants are strongly encouraged to cost share a portion of overhead and administrative expenses. Cost sharing, including contributions from the applicant, proposed in-country partner(s), and other sources should be included in the budget request. Proposal budgets that do not reflect cost sharing will be deemed not competitive in this category.

(4) *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of participants, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities). Applicants should refer to the Bureau's Diversity, Freedom and Democracy Guidelines in the Proposal Submission Instructions (PSI) and the Diversity, Freedom and Democracy Guidelines section above for additional guidance.

(5) *Post-Grant Activities:* Applicants should provide a plan to conduct activities after the Bureau-funded project has concluded in order to ensure that Bureau-supported programs are not isolated events. Funds for all post-grant activities must be in the form of contributions from the applicant or sources outside of the Bureau. Costs for these activities should not appear in the proposal budget, but should be outlined in the narrative.

(6) *Evaluation:* Proposals should include a detailed plan to evaluate the program. Applicants must identify objectives that respond to our goals listed in the RFGP. Objectives should state what the concrete results of the program would be. Clearly stated objectives are needed to enable an evaluation plan to determine whether the program has done what it has set out to do. Applicant's staff must plan to evaluate the project's success, after each program phase and at the completion of the program activity. As part of the evaluation process, your evaluation plan should clearly distinguish between program outputs and outcomes. Outputs are the units of service (number of participants, number of events conducted, number of documents translated or distributed). Outcomes are the impacts on individual participants in the exchanges, the larger beneficiary audience, and institutional structures. Findings on outputs and outcomes should both be reported, but the focus should be on outcomes. The more that outcomes are ''smart'' (specific, measurable, attainable, results-oriented, and placed in a reasonable time frame), the stronger will be the evaluation. The Bureau also requires that grantee institutions submit a final narrative and financial report.

VI. Award Administration Information

VI.1a. Award Notices

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal Bureau procedures. Successful applicants will receive an Assistance Award Document (AAD) from the Bureau's Grants Office. The AAD and the original grant proposal with subsequent modifications (if applicable) shall be the only binding authorizing document between the recipient and the U.S. Government. The AAD will be signed by an authorized Grants Officer, and mailed to the recipient's responsible officer identified in the application.

Unsuccessful applicants will receive notification of the results of the application review from the ECA program office coordinating this competition.

VI.2 Administrative and National Policy Requirements

Terms and Conditions for the Administration of ECA agreements include the following:

Office of Management and Budget Circular A–122, ''Cost Principles for Nonprofit Organizations.''

Office of Management and Budget Circular A–21, ''Cost Principles for Educational Institutions.''

OMB Circular A–87, ''Cost Principles for State, Local and Indian Governments.''

OMB Circular No. A–110 (Revised), Uniform Administrative Requirements

for Grants and Agreements with Institutions of Higher Education, Hospitals, and other Nonprofit Organizations.

OMB Circular No. A–102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

OMB Circular No. A–133, Audits of States, Local Government, and Non-profit Organizations.

Please reference the following Web sites for additional information: *http://www.whitehouse.gov/omb/grants. http://exchanges.state.gov/education/grantsdiv/terms.htm#articleI.*

VI.3. Reporting Requirements

You must provide ECA with a hard copy original plus one copy of the following reports:

1. A final program and financial report no more than 90 days after the expiration of the award;

2. A quarterly program report should evaluate the project's success for that quarter's activities and a financial report that describes the pace of spending in support of overall program objectives.

Grantees will be required to provide reports analyzing their evaluation findings to the Bureau in their regular program reports. (Please refer to IV. Application and Submission Instructions (IV.3.d.3) above for Program Monitoring and Evaluation information.

All data collected, including survey responses and contact information, must be maintained for a minimum of three years and provided to the Bureau upon request.

All reports must be sent to the ECA Grants Officer and ECA Program Officer listed in the final assistance award document.

VI.4. Optional Program Data Requirements

Organizations awarded grants will be required to maintain specific data on program participants and activities in an electronically accessible database format that can be shared with the Bureau as required. At a minimum, the data must include the following:

(1) Name, address, contact information and biographic sketch of all persons who travel internationally on funds provided by the grant or who benefit from the grant funding but do not travel.

(2) Itineraries of international and domestic travel, providing dates of travel and cities in which any exchange experiences take place. Final schedules for in-country and U.S. activities must be received by the ECA Program Officer at least three work days prior to the official opening of the activity.

VII. Agency Contacts

For questions about this announcement, contact: Clint Wright, Office of Citizen Exchanges, ECA/PE/C, Room 224, U.S. Department of State, SA–44, 301 4th Street, SW., Washington, DC 20547, telephone number 202–453–8164 and fax number 202–453–8169, *WrightHC@state.gov.*

All correspondence with the Bureau concerning this RFGP should reference the above title and number ECA/PE/C/WHA/EAP–08–53.

Please read the complete announcement before sending inquiries or submitting proposals. Once the RFGP deadline has passed, Bureau staff may not discuss this competition with applicants until the proposal review process has been completed.

VIII. Other Information

Notice

The terms and conditions published in this RFGP are binding and may not be modified by any Bureau representative. Explanatory information provided by the Bureau that contradicts published language will not be binding. Issuance of the RFGP does not constitute an award commitment on the part of the Government. The Bureau reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements per section VI.3 above.

Dated: February 26, 2008.

C. Miller Crouch,

Acting Assistant Secretary, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. E8–4413 Filed 3–5–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 6120]

Culturally Significant Objects Imported for Exhibition Determinations: ''Antonio Lopez Garcia''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Antonio Lopez Garcia'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Boston, Massachusetts, from on or about April 13, 2008, until on or about July 27, 2008, and at possible additional exhibitions or venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: 202/453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: February 28, 2008.

C. Miller Crouch,

Principal Deputy Assistant, Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E8–4414 Filed 3–5–08; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network; Agency Information Collection Activities; Proposed Collection; Comment Request; Renewal Without Change of the Designation of Exempt Person Form, FinCEN Form 110

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice and request for comments.

SUMMARY: FinCEN, a bureau of the U.S. Department of the Treasury (''Treasury''), invites all interested parties to comment on its continuing collection of information through its ''Designation of Exempt Person'' form used by banks and other depository institutions to designate their eligible customers as exempt from the requirement to report transactions in currency over $10,000.

DATES: Written comments are welcome and must be received on or before May 5, 2008.

ADDRESSES: Written comments should be submitted to: Office of Regulatory Policy and Programs Division, Financial

Crimes Enforcement Network, Department of the Treasury, P.O. Box 39, Vienna, Virginia 22183, Attention: PRA Comments—Designation of Exempt Person (DOEP), FinCEN Form 110. Comments also may be submitted by electronic mail to the following Internet address: *regcomments@fincen.gov*, again with a caption in the body of the text, ''Attention: PRA Comments—Designation of Exempt Person (DOEP), FinCEN Form 110''.

Inspection of comments: Comments may be inspected, between 10 a.m. and 4 p.m., in the FinCEN reading room in Vienna, VA. Persons wishing to inspect the comments submitted must request an appointment with the Disclosure Officer by telephoning (703) 905–5034 (Not a toll free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Regulatory helpline at (800) 949–2732 and select Option 3.

SUPPLEMENTARY INFORMATION: Pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), FinCEN is soliciting comments on the collection of information described below.

Title: Designation of Exempt Person.

OMB Number: 1506–0012.

Form Number: FinCEN Form 110.

Abstract: The Bank Secrecy Act, Titles I and II of Public Law 91–508, as amended, codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314; 5316–5332, authorizes the Secretary of the Treasury, among other things, to issue regulations requiring records and reports that are determined to have a high degree of usefulness in criminal, tax, and regulatory matters. Regulations implementing Title II of the Bank Secrecy Act (codified at 31 U.S.C. 5311–5314; 5316–5332) appear at 31 CFR part 103.

The authority of the Secretary to administer Title II of the Bank Secrecy Act has been delegated to the Director of FinCEN.

The reporting by financial institutions of transactions in currency in excess of $10,000 has long been a major component of the Treasury's implementation of the Bank Secrecy Act. The reporting requirement is imposed by 31 CFR 103.22, a rule issued under the broad authority granted to the Secretary of the Treasury by 31 U.S.C. 5313(a) to require reports of domestic coins and currency transactions.

The Money Laundering Suppression Act of 1994, Title IV of the Riegle Community Development and Regulatory Improvement Act (Pub. L. 103–325) amended 31 U.S.C. 5313. The statutory amendments mandate exemptions from currency transaction reporting in the case of customers that are other banks, certain governmental entities, or businesses for which reporting would serve little or no law enforcement purpose. The amendments also authorize Treasury to exempt certain other businesses.

On September 8, 1997, and September 30, 1998, Treasury issued final rules regarding these statutory amendments (62 FR 47141 and 63 FR 50147, respectively). The final rules reform and simplify the process by which banks may exempt eligible customers. The final rules, as further amended by 65 FR 46356, are set forth at 31 CFR 103.22(d).

Under the simplified exemption rules, a key requirement is a ''designation'' sent to the Treasury indicating that a customer will be treated by the bank as an exempt person, so that no further currency transaction reports will be filed on the customer's cash transactions exceeding $10,000. As part of the simplification process, Treasury previously issued a form specifically for making that designation. The information collected on the form, Designation of Exempt Person, FinCEN Form 110, is required to exempt bank customers from currency transaction reporting. The information is used to help determine whether a bank has properly exempted its customers. The collection of information is mandatory.

Current Actions: There are no proposed changes to the current DOEP, FinCEN Form 110.

The form is available on the FinCEN website at: *http://www.fincen.gov/forms/fin110_dep.pdf*.

Type of Review: Renewal without change of a currently approved collection.

Affected Public: Business or other for-profit institutions.

Frequency: As required.

Estimated Number of Respondents: 19,000.

Estimated Total Annual Responses: 65,000.

Estimated Total Annual Burden Hours: 97,500 hours. (Reporting average of 30 minutes per response; recordkeeping average of 1 hour per response).

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden collection of information; (c) ways to enhance quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance and purchase of services to provide information.

Dated: February 26, 2008.

James H. Freis, Jr.,

Director, Financial Crimes Enforcement Network.

[FR Doc. E8–4290 Filed 3–5–08; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[REG–102144–04]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–102144–04 (TD 9315), Dual Consolidated Losses and NOT–138529–05, Announcement of Rules Adopting Reasonable Cause Standard for Section 1503(d) Filings.

DATES: Written comments should be received on or before May 5, 2008, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carolyn N. Brown, (202) 622–6688, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: (Final) Dual Consolidated Losses.

OMB Number: 1545–1946.

Regulation Project Number: REG–102144–04/NOT–2006–13.

Abstract: Section 1503(d) denies the use of the losses of one domestic corporation by another affiliated domestic corporation where the loss corporation is also subject to the income tax of a foreign country. These final regulations address various dual consolidated loss issues, including exceptions to the general prohibition against using a dual consolidated loss to reduce the taxable income of any other member of the affiliated group.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 1,780.

Estimated Time per Respondent: 1 hour, 32 minutes.

Estimated Total Annual Burden Hours: 2,740.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 22, 2008.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E8–4273 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[LR–115–72]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, LR–115–72 (TD 8043), Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes (§§ 48.4161, 48.6416, 48.6420, 48.6421, 48.6424, and 48.6427).

DATES: Written comments should be received on or before May 5, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulation should be directed to Carolyn N. Brown, (202) 622–6688, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the internet at *Carolyn.N.Brown@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Manufacturers Excise Taxes on Sporting Goods and Firearms and Other Administrative Provisions of Special Application to Manufacturers and Retailers Excise Taxes.

OMB Number: 1545–0723.

Regulation Project Number: LR–115–72.

Abstract: Chapters 31 and 32 of the Internal Revenue Code impose excise taxes on the sale or use of certain articles. Code section 6416 allows a credit or refund of the tax to manufacturers in certain cases. Code sections 6420, 6421, and 6427 allow credits or refunds of the tax to certain users of the articles. This regulation contains reporting and recordkeeping requirements that enable the IRS and taxpayers to verify that the proper amount of tax is reported or excluded.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals, business or other for-profit organizations, not-for-profit institutions, farms, and state, local, or tribal governments.

Estimated Number of Respondents: 1,500,000.

Estimated Time per Respondent: 19 minutes.

Estimated Total Annual Burden Hours: 475,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 22, 2008.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E8–4274 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8834

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8834, Qualified Electric Vehicle Credit.

DATES: Written comments should be received on or before May 5, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland, Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the internet at (*Carolyn.N.Brown@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Qualified Electric Vehicle Credit.

OMB Number: 1545–1374.

Form Number: Form 8834.

Abstract: Internal Revenue Code section 30 allows a 10% tax credit, not to exceed $4,000, for qualified electric vehicles placed in service after June 30, 1993. Form 8834 is used to compute the allowable credit. The IRS uses the information on the form to determine that the credit is allowable and has been properly computed.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Pubic: Individuals or households and businesses or other for-profit organizations.

Estimated Number of Respondents: 500.

Estimated Time per Respondent: 8 hours, 47 minutes.

Estimated Total Annual Burden Hours: 4,395.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 22, 2008.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E8–4275 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form SS–4 and SS–4PR

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form SS–4, Application for Employer Identification Number, and Form SS–4PR, Solicitud de Numero de Indentification Patronal (EIN).

DATES: Written comments should be received on or before May 5, 2008 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn P. Kirkland Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Carolyn N. Brown at Internal Revenue Service, room 6129, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–6688, or through the internet at (*Carolyn.N.Brown@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: SS–4, Application for Employer Identification Number, and Form SS–4PR, Solicitud de Numero de Identification Patronal (EIN).

OMB Number: 1545–0003.

Form Number: Forms SS–4 and SS–4PR.

Abstract: Taxpayers who are required to have an identification number for use on any return, statement, or other document must prepare and file Form SS–4 or Form SS–4PR (Puerto Rico only) to obtain a number. The information is used by the Internal Revenue Service and the Social Security Administration in tax administration and by the Bureau of the Census for business statistics.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, not-for-profit institutions, farms, Federal government and state, local or tribal governments.

Estimated Number of Respondents: 1,612,708.

Estimated Time per Respondent: 9 hrs, 53 minutes.

Estimated Total Annual Burden Hours: 15,941,913.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and

tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 22, 2008.

Glenn P. Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E8–4278 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 6 Taxpayer Advocacy Panel (Including the States of Arizona, Colorado, Idaho, Montana, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 6 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 1, 2008.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227, or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 6 Taxpayer Advocacy Panel will be held Tuesday, April 1, 2008, from 1 p.m. Pacific Time to 2:30 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096, or you can contact us at *http://www.improveirs.org*.

The agenda will include the following: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4298 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 1, 2008.

FOR FURTHER INFORMATION CONTACT: Inez DeJesus at 1–888–912–1227 or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Ad Hoc IRS Forms and Publications/Language Services Issue Committee of the Taxpayer Advocacy Panel will be held Tuesday, April 1, 2008, at 2 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7977, or write Inez DeJesus, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Inez DeJesus. Ms. DeJesus can be reached at 1–888–912–1227 or 954–423–7977, or you can post comments to the Web site: *http://www.improveirs.org*.

The agenda will include: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4271 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 1 Taxpayer Advocacy Panel (Including the States of New York, Connecticut, Massachusetts, Rhode Island, New Hampshire, Vermont and Maine)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Area 1 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 15, 2008.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085.

SUPPLEMENTARY INFORMATION: An open meeting of the Area 1 Taxpayer Advocacy Panel will be held Tuesday, April 15, 2008, from 9 to 10 a.m. Eastern Time via a telephone conference call. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 718–488–2085, or write Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Audrey Y. Jenkins. Ms. Jenkins can be reached at 1–888–912–1227 or 718–488–2085, or post comments to the Web site: *http://www.improveirs.org*.

The agenda will include various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4295 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 2 Taxpayer Advocacy Panel (Including the States of Delaware, North Carolina, South Carolina, New Jersey, Maryland, Pennsylvania, Virginia, West Virginia and the District of Columbia)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 2 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 22, 2008, Wednesday, April 23, 2008, and Thursday, April 24, 2008.

FOR FURTHER INFORMATION CONTACT: Inez E. DeJesus at 1–888–912–1227, or 954–423–7977.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 2 Taxpayer Advocacy Panel will be held Tuesday, April 22, 2008, from 1 p.m. to 5 p.m., Wednesday, April 23, 2008, from 8 a.m. to 5 p.m., and Thursday, April 24, 2008, from 8 a.m. to noon Eastern Time in Baltimore, MD. For information or to confirm attendance, notification of intent to attend the meeting must be made with Inez E. DeJesus. Ms. DeJesus may be reached at 1–888–912–1227 or 954–423–7977, or you can write to Inez DeJesus, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4291 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 3 Taxpayer Advocacy Panel (Including the States of Florida, Georgia, Alabama, Mississippi, Louisiana, Arkansas, and the territory of Puerto Rico)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 3 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, April 14, 2008, at 12:30 p.m. Eastern Time.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 3 Taxpayer Advocacy Panel will be held Monday, April 14, 2008, at 12:30 p.m. Eastern Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Rd., Suite 340, Plantation, FL 33324. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Sallie Chavez. Ms. Chavez can be reached at 1–888–912–1227 or 954–423–7979, or post comments to the Web site: *http://www.improveirs.org.*

The agenda will include: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4289 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 4 Taxpayer Advocacy Panel (Including the States of Illinois, Indiana, Kentucky, Michigan, Ohio, Tennessee, and Wisconsin)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 4 Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 15, 2008, at 1 p.m., Central Time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 4 Taxpayer Advocacy Panel will be held Tuesday, April 15, 2008, at 1 p.m., Central Time via a telephone conference call. You can submit written comments to the panel by faxing the comments to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org.* Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2360 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4287 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 8, 2008, at 9:30 a.m. Central Time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section

10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Tuesday, April 8, 2008, at 9:30 a.m. Central Time via a telephone conference call. You can submit written comments to the panel by faxing to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or you can contact us at *http://www.improveirs.org.* Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2360 for dial-in information.

The agenda will include the following: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4285 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Area 5 Taxpayer Advocacy Panel (Including the States of Iowa, Kansas, Minnesota, Missouri, Nebraska, Oklahoma, and Texas)

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Area 5 Taxpayer Advocacy Panel will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Monday, April 28, 2008, 8 a.m. to 5 p.m., and Tuesday, April 29, 2008, 8 a.m. to Noon Central Time.

FOR FURTHER INFORMATION CONTACT: Mary Ann Delzer at 1–888–912–1227, or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Area 5 Taxpayer Advocacy Panel will be held Monday, April 28, 2008, 8 a.m. to 5 p.m., and Tuesday, April 29, 2008, 8 a.m. to Noon Central Time, in San Antonio, TX. You can submit written comments to the panel by faxing the comments to (414) 231–2363, or by mail to Taxpayer Advocacy Panel, Stop 1006MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53201–2221, or you can contact us at *http://www.improveirs.org.* Please contact Mary Ann Delzer at 1–888–912–1227 or (414) 231–2360 for more information.

The agenda will include the following: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4408 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open meeting of the Area 7 Taxpayer Advocacy Panel (Including the States of Alaska, California, Hawaii, and Nevada)

AGENCY: Internal Revenue Service (IRS) Treasury

ACTION: Notice of Meeting

SUMMARY: An open meeting of the Area 7 committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service. The TAP will use citizen input to make recommendations to the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 16, 2008.

FOR FURTHER INFORMATION CONTACT: Janice Spinks at 1–888–912–1227 or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Area 7 Taxpayer Advocacy Panel will be held Wednesday, April 16, 2008, from 2 to 3:30 p.m. Pacific Time via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Janice Spinks, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA, 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Janice Spinks. Miss Spinks can be reached at 1–888–912–1227 or 206–220–6096, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4296 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Joint Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Joint Committee of the Taxpayer Advocacy Panel will be conducted via conference call. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 2, 2008.

FOR FURTHER INFORMATION CONTACT: Patricia Robb at 1–888–912–1227 or (414) 231–2360.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Joint Committee of the Taxpayer Advocacy Panel (TAP) will be held Wednesday, April 2, 2008, at 2 p.m. Eastern Time via a conference call. If you would like to have the Joint Committee of TAP consider a written statement, please call 1–888–912–1227 or (414) 231–2360, or write Patricia Robb, TAP Office, MS–1006–MIL, 211 West Wisconsin Avenue, Milwaukee, WI 53203–2221, or FAX to (414) 231–2363, or you can contact us at *http://www.improveirs.org.* For information to join the Joint Committee meeting, contact Patricia Robb at the above number.

The agenda will include the following: Discussion of issues and responses brought to the Joint Committee, office report, and discussion of annual meeting.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4270 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Thursday, April 10, 2008.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or (718) 488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel Small Business/Self Employed—Taxpayer Burden Reduction Issue Committee will be held Thursday, April 10, 2008, at 2 p.m. Eastern Time via a telephone conference call. You can submit written comments to the panel by faxing to (718) 488–2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY, 11201, or you can contact us at *http://www.improveirs.org.* Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1–888–912–1227 or (718) 488–3557 for additional information.

The agenda will include the following: Various IRS Issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4300 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of Meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Friday, April 18, 2008, and Saturday, April 19, 2008.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 or 718–488–2085

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be held Friday, April 18, 2008, from 8 a.m. to 4:30 p.m., and Saturday, April 19, 2008, from 8:30 a.m. to Noon, Eastern Time in Atlanta, GA. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. For information or to confirm attendance, notification of intent to attend the meeting must be made with Audrey Y. Jenkins. Ms. Jenkins may be reached at 1–888–912–1227 or (718) 488–2085. Send written comments to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post comments to the Web site: *http://www.improveirs.org.* Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance.

The agenda will include various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4299 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel (TAP) is soliciting public comments, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 22, 2008.

FOR FURTHER INFORMATION CONTACT: Dave Coffman at 1–888–912–1227 or 206–220–6096.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Assistance Center Committee of the Taxpayer Advocacy Panel will be held Tuesday, April 22, 2008, from 9 a.m. Pacific Time to 10:30 a.m. Pacific Time via a telephone conference call. If you would like to have the TAP consider a written statement, please call 1–888–912–1227 or 206–220–6096, or write to Dave Coffman, TAP Office, 915 2nd Avenue, MS W–406, Seattle, WA 98174. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made with Dave Coffman. Mr. Coffman can be reached at 1–888–912–1227 or 206–220–6096, or you can contact us at *http://www.improveirs.org.*

The agenda will include the following: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4294 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Volunteer Income Tax Assistance (VITA) Issue Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be conducted. The Taxpayer Advocacy Panel is soliciting public comment, ideas, and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, April 8, 2008.

FOR FURTHER INFORMATION CONTACT: Marisa Knispel at 1–888–912–1227 or (718) 488–3557.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that a meeting of the Taxpayer Advocacy Panel VITA Issue Committee will be held Tuesday, April 8, 2008, at 2 p.m. Eastern Time via a telephone

conference call. You can submit written comments to the panel by faxing to (718) 488–2062, or by mail to Taxpayer Advocacy Panel, 10 Metro Tech Center, 625 Fulton Street, Brooklyn, NY 11201, or you can contact us at *http://www.improveirs.org*. Public comments will also be welcome during the meeting. Please contact Marisa Knispel at 1–888–912–1227 or (718) 488–3557 for additional information.

The agenda will include the following: Various VITA Issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4281 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of meeting.

SUMMARY: An open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Wednesday, April 16, 2008, Thursday, April 17, 2008, and Friday, April 18, 2008.

FOR FURTHER INFORMATION CONTACT: Sallie Chavez at 1–888–912–1227, or 954–423–7979.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Wage & Investment Reducing Taxpayer Burden (Notices) Issue Committee of the Taxpayer Advocacy Panel will be held Wednesday, April 16, 2008, 1 p.m. to 5 p.m., Thursday, April 17, 2008, 8 a.m. to 5 p.m., and Friday, April 18, 2008, 8 a.m. to noon Mountain Time in Salt Lake City, UT. The public is invited to make oral comments; individual comments will be limited to 5 minutes. For information or to confirm attendance, notification of intent to attend the meeting must be made with Sallie Chavez. Please call Ms. Chavez at 1–888–912–1227 or 954–423–7979, or write Sallie Chavez, TAP Office, 1000 South Pine Island Road, Suite 340, Plantation, FL 33324, or post comments to the Web site: *http://www.improveirs.org*.

The agenda will include: Various IRS issues.

Dated: February 27, 2008.

Sandra L. McQuin,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E8–4279 Filed 3–5–08; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Gulf War Veterans; Notice of Establishment

As required by section 9(a)(2) of the Federal Advisory Committee Act, the Department of Veterans Affairs hereby gives notice of the establishment of the Department of Veterans Affairs (VA) Advisory Committee on Gulf War Veterans. The Secretary of Veterans Affairs had determined that establishing the Committee is both necessary and in the public interest.

The Advisory Committee on Gulf War Veterans will advise the Secretary of Veterans Affairs on the full spectrum of health care and benefits issues that confront veterans who served in the Southwest Asia theater of operations during the 1990–1991 period of the Gulf War. The Committee will pay particular attention to issues that are unique to these veterans.

Committee members will be appointed by the Secretary of Veterans Affairs and will be selected from among knowledgeable experts, veterans, and others with special competence to evaluate the particular needs of veterans who served during the 1990–1991 period of the Gulf War. Members will include Gulf War veterans, medical professionals with expertise in Gulf War veterans' illnesses, environmental health experts, veterans service organization officials, and other appropriate individuals.

The Committee is expected to remain operational for 18 months after its first meeting. Prior to its termination, the Committee will submit to the Secretary a report containing recommendations on the delivery of VA benefits and services to Gulf War veterans.

Dated: February 29, 2008.

By the direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 08–956 Filed 3–5–08; 8:45 am]

BILLING CODE 8320–01–M

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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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Grant Parish Area, Louisiana; comments due by 3-14-08; published 2-13-08 [FR E8-02705]

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Establishment of Nonessential Experimental Population of Rio Grande Silvery Minnow; Big Bend Reach, Rio Grande, TX; comments due by 3-10-08; published 2-22-08 [FR E8-03385]

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LABOR DEPARTMENT

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TREASURY DEPARTMENT

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Federal Government Participation in the Automated Clearing House; comments due by 3-10-08; published 1-9-08 [FR 08-00022]

LIST OF PUBLIC LAWS

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Cameron Gulbransen Kids Transportation Safety Act of 2007 (Feb. 28, 2008; 122 Stat. 639)

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