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Contents

Federal Register

Vol. 72, No. 174

Monday, September 10, 2007

Agriculture Department
See Food Safety and Inspection Service
See Forest Service

Children and Families Administration
NOTICES
Child Care and Development Fund:
Error rate reporting; forms and instructions approval, 51639

Coast Guard
RULES
Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:
Lake Michigan, Winnetka, IL, 51557–51559
Savannah River, GA, 51555–51557

Commerce Department
See International Trade Administration
See National Oceanic and Atmospheric Administration
See Patent and Trademark Office

Defense Department
See Navy Department
NOTICES
Meetings:
Defense Acquisition University Board of Visitors, 51627
Threat Reduction Advisory Committee, 51627
Senior Executive Service Performance Review Board; membership, 51627–51628

Drug Enforcement Administration
NOTICES
Registration revocations, restrictions, denials, reinstatements:
Germaine, Randi M., M.D., 51665–51668
Applications, hearings, determinations, etc.:
CIMA Labs, Inc., 51664
Cody Laboratories, Inc., 51664–51665

Education Department
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 51628–51629
Meetings:
Reading First Advisory Committee, 51629–51630

Employee Benefits Security Administration
NOTICES
Employee benefit plans; individual exemptions:
Barclays Global Investors, N.A., et al., 51668–51685

Employment and Training Administration
NOTICES
Adjustment assistance; applications, determinations, etc.:
Risdon International, 51685

Energy Department
See Federal Energy Regulatory Commission

Environmental Protection Agency
RULES
Air quality implementation plans; approval and promulgation; various States:
New Hampshire, 51564–51567
Ohio; correction, 51567–51568
PROPOSED RULES
Air quality implementation plans; approval and promulgation; various States:
New Hampshire, 51574–51575

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 51633

Federal Communications Commission
PROPOSED RULES
Television broadcasting:
Advanced television (ATV) systems—
Digital television transition; DTV table of allotments, 51575–51581
NOTICES
Meetings; Sunshine Act, 51633–51634

Federal Energy Regulatory Commission
NOTICES
Electric rate and corporate regulation combined filings, 51630
Natural gas pipeline rate and refund report filings, 51631–51633

Federal Reserve System
NOTICES
Banks and bank holding companies:
Change in bank control, 51635

Food Safety and Inspection Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 51582–51583

Forest Service
NOTICES
Meetings:
Eastern Washington Cascades Provincial and Yakima Provincial Advisory Committees, 51583
Opal Creek Scenic Recreation Area Advisory Council, 51583–51584

General Services Administration
NOTICES
Federal Management Regulation:
Antennas of Federal agencies and public service organizations; fee assessment and cost recovery (FMR bulletin 2007-B3), 51635–51639

Health and Human Services Department
See Children and Families Administration
See National Institutes of Health
See Substance Abuse and Mental Health Services Administration

Homeland Security Department
See Coast Guard

Interior Department
See Minerals Management Service
See National Park Service

International Trade Administration
NOTICES
Antidumping:
Corrosion-resistant carbon steel flat products from—
Korea, 51584–51588
Polyethylene retail carrier bags from—
China, 51588–51595
Stainless steel bar from—
India, 51595–51598
Steel concrete reinforcing bars from—
Turkey, 51598–51602
Countervailing duties:
Corrosion-resistant carbon steel flat products from—
Korea, 51602–51609
Dynamic random access memory semiconductors from—
Korea, 51609–51614
Laminated woven sacks from—
China, 51614–51615
Stainless steel sheet and strip in coils from—
Korea, 51615–51619

Judicial Conference of the United States
NOTICES
Reports and guidance documents; availability, etc.:
Internet access to federal court case files; privacy and security implications, 51659–51660

Justice Department
See Drug Enforcement Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 51660–51663
Privacy Act; systems of records, 51663–51664

Labor Department
See Employee Benefits Security Administration
See Employment and Training Administration

Minerals Management Service
NOTICES
Environmental statements; notice of intent:
Western and Central Gulf of Mexico OCS—
Oil and gas lease sales, 51654–51657

National Aeronautics and Space Administration
NOTICES
Meetings:
Advisory Council Science Committee, 51686
National Space-Based Positioning, Navigation, and Timing Advisory Board, 51686

National Archives and Records Administration
NOTICES
Meetings:
Archival materials; digitizing for public access; plan, 51686–51687

National Institutes of Health
NOTICES
Meetings:
National Cancer Institute, 51639–51641
National Center for Research Resources, 51641
National Institute of Allergy and Infectious Diseases, 51643–51645
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 51645
National Institute of Biomedical Imaging and Bioengineering, 51642
National Institute of Dental and Craniofacial Research, 51642–51644
National Institute of Diabetes and Digestive and Kidney Diseases, 51644
National Institute of General Medical Sciences, 51641–51642
National Institute of Neurological Disorders and Stroke, 51645–51646
National Institute on Aging, 51646
National Institute on Alcohol Abuse and Alcoholism, 51642
National Library of Medicine, 51646–51647
Scientific Review Center, 51647–51652
Patent licenses; non-exclusive, exclusive, or partially exclusive:
AlphaCore Pharma, Inc., 51652

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Alaska; fisheries of Exclusive Economic Zone—
Bering Sea and Aleutian Islands groundfish, 51570–51571
NOTICES
Coastal zone management programs and estuarine sanctuaries:
Consistency appeals—
AES Sparrows Point LNG, et al., 51619
Endangered and threatened species:
Findings on petitions, etc.—
Pacific herring; Lynn Canal stock, 51619–51621
Marine mammal permit applications, determinations, etc., 51621–51622
Marine mammals:
Incidental taking; authorization letters, etc.—
Scripps Institute of Oceanography; northeastern Pacific Ocean; low-energy marine seismic survey; dolphins, whales, etc., 51622–51627

National Park Service
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 51657
Environmental statements; record of decision:
Castillo de San Marcos National Monument, FL; general management plan, 51657–51658
National Register of Historic Places; pending nominations, 51658
Oil and gas plans of operations; availability, etc.:
Big South Fork National River and Recreation Area, TN, 51658–51659

National Science Foundation
NOTICES
Meetings:
Biological Sciences Advisory Committee, 51687

Navy Department
NOTICES
Meetings:
Naval Postgraduate School Board of Advisors to the President, 51628

Patent licenses; non-exclusive, exclusive, or partially exclusive:
NCP Coatings, Inc., 51628

Nuclear Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Pacific Gas & Electric Co., 51687–51688

Overseas Private Investment Corporation
NOTICES
Meetings; Sunshine Act, 51688–51689

Patent and Trademark Office
RULES
Patent cases:
Patent Cooperation Treaty; application procedures, 51559–51564

Securities and Exchange Commission
NOTICES
Self-regulatory organizations; proposed rule changes:
Financial Industry Regulatory Authority, Inc., 51689–51691
International Securities Exchange, LLC, 51692–51693
NASDAQ Stock Market LLC, 51693–51695

Small Business Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 51695

State Department
RULES
Acquisition regulations:
Information technology systems; security issues, 51568–51570

Substance Abuse and Mental Health Services Administration
NOTICES
Agency information collection activities; proposals, submissions, and approvals, 51652–51654

Tennessee Valley Authority
PROPOSED RULES
Practice and procedure:
Testimony by agency employees, production of official records, and disclosure of official information in legal proceedings, 51572–51574

United States Institute of Peace
NOTICES
Meetings; Sunshine Act, 51695

Readers Aids
Consult the Reader Aids section at the end of this issue for phone numbers online resources, finding aids, reminders, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

18 CFR
Proposed Rules:
1301 51572

33 CFR
165 (2 documents) 51555, 51557

37 CFR
1 51559

40 CFR
52 (2 documents) 51564, 51567

Proposed Rules:
52 51574

47 CFR
Proposed Rules:
73 51575

48 CFR
639 51568
652 51568

50 CFR
679 51570

Rules and Regulations

Federal Register
Vol. 72, No. 174
Monday, September 10, 2007

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. CGD07–05–138]

RIN 1625–AA11

Regulated Navigation Area: Savannah River, Savannah, GA

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: On January 19, 2007, the Coast Guard published an interim rule with request for comments, which revised the regulated navigation area in Savannah, Georgia, to address changes in Liquefied Natural Gas (LNG) tankship mooring locations following the creation of two new berths within a slip at the Southern LNG facility on the Savannah River. The final rule only addressed facility and vessel requirements when an LNG vessel was underway or moored parallel to the navigational channel outside of the slip. The interim rule was necessary to describe requirements for three different potential mooring situations following the LNG facilities expansion. This final rule adopts the interim rule requirements without change for the following mooring situations at the LNG facility: An LNG tankship moored outside of the slip, one or more LNG tankships moored inside the slip, and LNG tankships moored both inside and outside of the slip.

DATES: Effective October 10, 2007 the interim rule amending 33 CFR part 165 which was published at 72 FR 2448 on January 19, 2007, is adopted as a final rule.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket [CGD07–05–138], and are available for inspection or copying at Marine Safety Unit Savannah, Gordon Low Federal Building, Suite 1017, 100 W. Oglethorpe, Savannah, Georgia 31401, between 7:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lieutenant Robert Webb, Waterways Management Officer, Marine Safety Unit Savannah; (912) 652–4353.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On January 19, 2007, the Coast Guard published an interim rule with request for comments entitled ''Regulated Navigation Area: Savannah River, Savannah, GA'' in the **Federal Register** (72 FR 2448). The Coast Guard received two letters commenting on the interim rule. No public meeting was requested, and none was held.

Background and Purpose

In May 2002, Southern LNG Inc., submitted a letter of intent to expand the LNG facility on Elba Island that would nearly double LNG storage capacity and substantially increase the number of LNG tankship arrivals. The Coast Guard's positive endorsement was contingent upon the relocation of the primary LNG mooring facility in order to reduce the risk of allision and subsequent breaching of an LNG tankship's cargo tank(s). To meet this Coast Guard requirement, Southern LNG Inc., initiated a project to create a protected docking slip designed to allow simultaneous LNG transfers from vessels. This expansion, completed early in 2006, significantly reduced the level of risk associated with LNG tankship operations and vessels passing by the LNG facility. This rule addresses the three possible tankship mooring configurations now available to LNG tankships. The three possible tankship mooring configurations available to LNG tankships are LNG vessels moored—

- Inside the slip,
- Outside the slip, or a
- Combination of inside and outside the slip.

Discussion of Comments and Changes

The Coast Guard received four comments from two commenters during the interim rule comment period (72 FR 2448). One commenter requested consideration as a small entity and a ''variation in the 2nm/70 yard restriction''. It appears that the commenter's vessel may meet the definition of a small entity; however, the Coast Guard does not believe the rule will cause significant economic impact to the commenter.

The requirement to maintain a 2 nautical mile distance from LNG tankships, carrying LNG in excess of heel, only applies to vessels 1,600 gross tons and larger. The commenter's vessel is well under 1,600 gross tons and would only have to meet the requirements outlined in paragraphs (d)(1)(ii) and (d)(6)(vi) of the rule. Paragraph (d)(1)(ii) states that all vessels less than 1,600 gross tons shall keep clear of transiting LNG tankships and paragraph (d)(6)(vi) prohibits vessels less than 1,600 gross tons from approaching within 70 yards (210 feet) of a LNG tankship, carrying LNG in excess of heel, without the permission of the Captain of the Port. The width of the navigable channel where the commenter's vessel is expected to encounter a LNG tankship, and is directed to keep clear, is no less than 500 feet (166.7 yards). The Coast Guard believes the width of the channel provides an adequate distance for vessels under 1,600 gross tons to keep clear of a LNG tankship and therefore would not delay the commenter's vessel or cause significant economic impact.

Also, the requirement for vessels under 1,600 gross tons not to approach within 70 yards of a LNG tankship, carrying LNG in excess of heel, without permission of the COTP is applicable when approaching a moored LNG tankship. The route of the commenter's vessel does not typically include passing the LNG facility and therefore it is not likely that they will encounter a situation where they would approach a moored LNG tankship. The width of the navigation channel at the LNG facility is no less than 500 feet therefore, if a circumstance arose where the commenter's vessel did have to pass the LNG facility, the width of the channel would provide more than enough distance for the commenter's vessel to maintain the minimum 70 yard requirement. The Coast Guard does not believe this rule will cause the commenter significant economic impact because it is not likely the commenter's vessel will encounter a situation where they pass the LNG facility and the

channel is wide enough to maintain the 70 yard requirement without impacting the commenter's vessel.

The second commenter submitted several comments. The commenter stated that it was their belief that the docking pilots would better serve the LNG vessel and facility if stationed on the escort tugs after berthing the LNG vessel in the slip. After careful review and consultation with local docking management, the requirement for a bridge watch consisting of a docking pilot or licensed deck officer on board the moored LNG vessel remains. The Coast Guard believes that the docking pilot's reaction time and situational awareness to an emergency situation on the LNG tankship will be greater if he or she remains on board the LNG tankship.

The second commenter also stated they believe the docking pilots would be better off assisting a vessel, transiting the RNA, which has developed an emergency situation requiring tug assistance. Following careful review of this comment, we believe the Federal Pilot or Savannah River Pilot piloting a passing vessel 1,600 gross tons or greater that has an emergency, is better equipped to coordinate tug assistance in the course of their actions to address the emergency and bring a stricken vessel under control than a docking pilot on board an assist tug.

The second commenter also stated that they believe the docking pilots will be in violation of Georgia Code Sections 52–6–45 and 52–6–54 if they are on board an LNG vessel ordered to get underway in the event of an emergency departure. After careful review, consultation, and in agreement with the Savannah River Pilots and local docking management, the Coast Guard does not believe Georgia Code Sections 52–6–45 and 52–6–54 are applicable nor that docking pilots will be in violation of these state codes by remaining on board a LNG tankship ordered to get underway in an emergency.

Georgia Code (O.C.G.A.) Section 52–6–45 (2006) is entitled ''Vessels to be under direction and control of licensed pilots; exemptions; use of docking pilots.'' O.C.G.A. section 52–6–45(a) states ''[E]xcept as otherwise provided in this Code section, every vessel shall be under the direction and control of a pilot licensed by this state when underway in the bays, rivers, harbors, and ports of this state and the approaches thereto.'' O.C.G.A. section 52–6–45(b) lists categories exempted of the requirements in section 52–6–45(a) one of which is ''[V]essels in distress or jeopardy, except that such vessel shall take a state licensed pilot as soon as one arrives at the vessel.'' Furthermore, paragraph (c) in § 52–6–45 states ''[N]othing in this Code section shall be construed to prohibit a vessel from utilizing the services of a docking pilot in addition to the state licensed pilot required under this chapter during docking and undocking maneuvers with the assistance of one or more tugboats.''

O.C.G.A. section 52–6–54 makes it unlawful for anyone to act as a pilot without a license or interfere or disturb a licensed pilot in the performance of their duties. Additionally, paragraph (c) of O.C.G.A. section 52–6–54 states ''[N]otwithstanding any other provisions of this Code section, any person may assist a vessel in distress which has no pilot on board if such person delivers up the vessel to the first licensed pilot who comes on board and offers to conduct it.''

The requirement for a docking pilot to remain on board a moored LNG ship at the facility is a necessary requirement needed to assist LNG ships in an emergency situation; emergency situations have occurred at the facility—as previously discussed in the Interim Rule with requests for comments (72 FR 2448). O.C.G.A. section 52–6–45 and O.C.G.A. section 52–6–54 allow for licensed pilots and docking pilots to operate on board a vessel in conjunction with one another. These Georgia Code sections also allow for anyone to assist a vessel in distress without a pilot on board as long as that person does not interfere with a licensed pilot that shows up on scene to assist the vessel. It is for these reasons above that the requirement for a bridge watch consisting of a docking pilot or licensed deck officer on board the moored LNG vessel remains.

This final rule adopts the requirements published in the interim rule (72 FR 2448) without change. The final rule is necessary to ensure the safety of LNG vessels, the facility, the waterway, and the public due to the three different mooring situations now possible following the LNG facilities expansion.

Regulatory Evaluation

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

Delays for inbound and outbound traffic due to LNG transits will be reduced through this rule and through pre-transit conferences between the pilots and the Coast Guard Captain of the Port. Additional financial benefits of this rule are that LNG tankships transiting in heel will not be required to have two escort towing vessels and LNG tankships moored only inside the LNG facility slip will only be required to provide 2 standby towing vessels vice the current requirement of 3 towing vessels.

The requirement of having one of the escort towing vessels be FiFi Class 1 equipped does not impose an additional financial burden due to a FiFi Class 1 escort towing vessel is currently being utilized for this purpose.

Small Entities

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this proposal so that they could better evaluate its effects on them and participate in the rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and

would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

We have analyzed this 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. It has not been designated by the Administrator of the Office of Information and Regulatory Affairs as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Division 5100.0, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. A final ''Environmental Analysis Check List'' and a final ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ Accordingly, the interim rule amending 33 CFR part 165 which was published at 72 FR 2448 on January 19, 2007, is adopted as a final rule without change.

Dated: August 14, 2007.

D.W. Kunkel,

Rear Admiral, U.S. Coast Guard, Commander, Seventh Coast Guard District.

[FR Doc. E7–17631 Filed 9–7–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD09–06–116]

RIN 1625–AA00

Safety Zone; Winnetka Fireworks, Lake Michigan, Winnetka, IL

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Michigan, Winnetka, IL. This zone is intended to restrict vessels from a portion of Lake Michigan during the Winnetka September 15, 2007 fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with fireworks displays.

DATES: This rule is effective from 8:30 p.m. to 10:30 p.m. on September 15, 2007.

ADDRESSES: Documents indicated in this preamble as being available in the docket, are part of docket CGD09–04–116 and are available for inspection or copying at U.S. Coast Guard Sector Lake Michigan (spw), 2420 South Lincoln Memorial Drive, Milwaukee, WI 53207 between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: CWO Brad Hinken, Prevention Department, Coast Guard Sector Lake Michigan, Milwaukee, WI at (414) 747–7154.

SUPPLEMENTARY INFORMATION:

Regulatory Information

We did not publish a notice of proposed rulemaking (NPRM) for this regulation. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing an NPRM. The permit application was not received in time to publish an NPRM followed by a final rule before the effective date. Under 5 U.S.C. 553(d)(3), good cause exists for making this rule effective fewer than 30 days after publication in the **Federal Register**. Delaying this rule would be

contrary to the public interest of ensuring the safety of spectators and vessels during this event and immediate action is necessary to prevent possible loss of life or property.

Background and Purpose

This temporary safety zone is necessary to ensure the safety of vessels and spectators from hazards associated with a fireworks display. Based on accidents that have occurred in other Captain of the Port zones, and the explosive hazards of fireworks, the Captain of the Port Lake Michigan has determined that fireworks launches proximate to watercraft pose a significant risk to public safety and property. The likely combination of large numbers of recreation vessels, congested waterways, darkness punctuated by bright flashes of light, alcohol use, and debris falling into the water could easily result in serious injuries or fatalities. Establishing a safety zone to control vessel movement around the location of the launch platform will help ensure the safety of persons and property at these events and help minimize the associated risks.

Discussion of Rule

A temporary safety zone is necessary to ensure the safety of spectators and vessels during the setup, loading and launching of a fireworks display in conjunction with the Winnetka fireworks display. The fireworks display will occur between 9 p.m. and 9:30 p.m. on September 15, 2007.

The safety zone for the fireworks will encompass all waters within the arc of a circle with a 900-foot radius from the fireworks launch site located in position 42°06′23″ N, 087°43′12″ W. (NAD 83).

All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the on-scene representative. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan or his on-scene representative. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16.

Regulatory Evaluation

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

This determination is based on the minimal time that vessels will be restricted from the zone and the zone is an area where the Coast Guard expects insignificant adverse impact to mariners from the zone's activation.

Small Entities

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

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

This rule will affect the following entities, some of which may be small entities: The owners and operators of vessels intending to transit or anchor in a portion of Lake Michigan off Winnetka, Illinois, between 8:30 p.m. and 10:30 p.m. on September 15, 2007.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: this rule will be in effect for only two hours for one event. Vessel traffic can safely pass outside the safety zone during the event. In the event that this temporary safety zone affects shipping, commercial vessels may request permission from the Captain of the Port Lake Michigan to transit through the safety zone. The Coast Guard will give notice to the public via a Broadcast to Mariners that the regulation is in effect.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process. Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

The Coast Guard recognizes the treaty rights of Native American Tribes. Moreover, the Coast Guard is committed to working with Tribal Governments to implement local policies and to mitigate tribal concerns. We have determined that these regulations and fishing rights

protection need not be incompatible. We have also determined that this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. Nevertheless, Indian Tribes that have questions concerning the provisions of this rule or options for compliance are encouraged to contact the point of contact listed under **FOR FURTHER INFORMATION CONTACT**.

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction, from further environmental documentation. This event establishes a safety zone; therefore paragraph (34)(g) of the Instruction applies.

A final ''Environmental Analysis Check List'' and ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

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

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

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

■ 2. A new temporary § 165.T09–116 is added as follows:

§ 165.T09–116 Safety zone; Winnetka Fireworks, Lake Michigan, Winnetka, IL.

(a) *Location.* The following area is a temporary safety zone: all waters of Lake Michigan within the arc of a circle with a 900-foot radius from the fireworks launch site located in position 42°06′23″ N, 087°43′12″ W. (NAD 83).

(b) *Effective period.* This zone is effective from 8:30 p.m. on September 15, 2007 to 10:30 p.m. on September 15, 2007.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Lake Michigan, or his on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Lake Michigan or his on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port to act on his behalf. The on-scene representative of the Captain of the Port will be aboard either a Coast Guard or Coast Guard Auxiliary vessel.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Lake Michigan or his on-scene representative to obtain permission to do so. The Captain of the Port or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Lake Michigan or his on-scene representative.

Dated: August 27, 2007.

B.C. Jones,

Captain, U.S. Coast Guard, Captain of the Port Lake Michigan.

[FR Doc. E7–17717 Filed 9–7–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. PTO–C–2006–0057]

RIN 0651–AC09

April 2007 Revision of Patent Cooperation Treaty Procedures

AGENCY: United States Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The United States Patent and Trademark Office (USPTO or Office) is revising the rules of practice in title 37 of the Code of Federal Regulations (CFR) to conform them to certain amendments made to the Regulations under the Patent Cooperation Treaty (PCT) that took effect on April 1, 2007. These amendments result in the addition of a mechanism to the PCT system whereby applicants may request that the right to claim priority be restored in applications that meet certain requirements. In addition, these amendments provide a means for applicants to insert a missing portion of an international application without the loss of the international filing date. These amendments also clarify the circumstances and procedures under which the correction of an obvious mistake may be made in an international application. Finally, the Office is revising the search fee for international applications.

DATES: *Effective Date:* The changes to 37 CFR 1.57, 1.437, and 1.465 are effective

on September 10, 2007. The changes to 37 CFR 1.17 and 1.445 and the addition of 37 CFR 1.452, are effective on November 9, 2007.

Applicability Date: The changes to 37 CFR 1.57, 1.437, and 1.465 are applicable as of April 1, 2007, for international applications filed on or after that date. The changes to 37 CFR 1.17 and the addition of 37 CFR 1.452 are applicable as of November 9, 2007 for international applications filed on or after April 1, 2007. The changes to 37 CFR 1.445 are applicable to any international application having a receipt date that is on or after November 9, 2007.

FOR FURTHER INFORMATION CONTACT: Richard R. Cole, Senior Legal Examiner, Office of PCT Legal Administration (OPCTLA) directly by telephone at (571) 272–3281, or by facsimile at (571) 273–0459.

SUPPLEMENTARY INFORMATION: During the September–October 2005 meeting of the Governing Bodies of the World Intellectual Property Organization (WIPO), the PCT Assembly adopted various amendments to the Regulations under the PCT that enter into force on April 1, 2007. The amended PCT Regulations were published in the PCT Gazette of February 23, 2006 (08/2006), in section IV, at pages 5496–5541. The purposes of these amendments are to: (1) Bring the provisions of the PCT into closer alignment with the provisions of the Patent Law Treaty (PLT); and (2) clarify the circumstances and procedures under which the correction of an obvious mistake may be made in an international application.

Alignment with the PLT: The PLT provides for: (1) Restoration of applicant's right to claim priority under certain situations (PLT Article 13(2)); (2) insertion of a missing portion of an application without the loss of the filing date (PLT Article 5(6)); and (3) substitution of the description and drawings upon filing with a reference to a previously filed application (PLT Article 5(7)). The present amendments to the PCT Regulations will provide similar mechanisms for applicants using the PCT system.

With regard to restoration of applicant's right to claim priority under certain situations (PLT Article 13(2)), PCT Rule 26*bis* has been amended to provide for the restoration of the right to claim priority in international applications which have been filed between twelve and fourteen months after the priority date and in which the delay in filing the international application was either in spite of due care or unintentional. It must be noted that PCT Rule 49*ter* provides for designated Offices whose national law is incompatible with the PCT provisions concerning restoration of the right of priority to take a reservation with respect to the effects of this provision on national applications. The United States has taken this reservation pending passage of legislation that would implement the PLT in the United States. Therefore, any restoration of a right of priority by the United States Receiving Office under this section, or by any other Receiving Office under the provisions of PCT Rule 26*bis*.3, will not entitle applicants to a right of priority in any application which has entered the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right of priority has been restored. Whether or not applicant is entitled to the right of priority continues to be governed by whether applicant has satisfied the provisions of 35 U.S.C. 119, 120, and 365.

It must also be noted that even though restoration of such a right will not entitle applicant to the right of priority in a subsequent United States application, the priority date will still govern all PCT time limits, including the thirty-month period for filing national stage papers and fees under 37 CFR 1.495. PCT Article 2(ix), which defines ''priority date'' for purposes of computing time limits, contains no limitation that the priority claim be valid. Thus, for example, in an international application containing an earliest priority claim to a German application filed thirteen months prior to the filing date of the international application, the filing date of the German application will be used as the basis for computing time limits under the PCT, including the thirty-month time period set forth in 37 CFR 1.495 to submit the basic national fee (§ 1.492(a)) to avoid abandonment, even though applicant would not be entitled to priority to the German application in the United States national phase since the German application was filed more than twelve months from the international filing date. *See* 35 U.S.C. 119(a) and 365(b).

Concerning insertion of a missing portion of an application without the loss of the filing date through the use of an incorporation by reference statement (PLT Article 5(6)), PCT Rules 4 and 20 have been amended to allow for the inclusion of such an incorporation by reference statement on the PCT Request form. PLT Article 5(7) provides for the substitution of the entire description and drawings upon filing with a reference to a previously filed application. While this provision could not be implemented to the extent provided in the PLT absent amendment of the PCT Articles, the amendments to PCT Rules 4 and 20 to allow for the inclusion of an incorporation by reference statement on the PCT Request form result in substantially the same outcome for applicants. Applicants may rely on this statement to insert portions of the international application (including the entire description, claims, and/or drawings) which were missing upon the international filing date without loss of their original filing date. 37 CFR 1.412(c)(1) already provides that the USPTO, in its capacity as a PCT Receiving Office, will accord international filing dates in accordance with PCT Rule 20. Therefore, no change to the rules of practice in title 37 CFR is necessary to implement these provisions, other than the deletion of 37 CFR 1.437(b) due to the fact that missing drawings are no longer handled in a manner different from the description and claims.

Similarly, no change to the rules of practice in title 37 CFR is necessary to implement the PCT Rule changes directed to clarifying the circumstances and procedures under which the correction of an obvious mistake may be made in an international application (PCT Rule 91). The U.S. Court of Appeals for the Federal Circuit has held that the Office's interpretation of the previous version of PCT Rule 91.1 to mean that correction of an obvious error is permitted under PCT Rule 91 only if the correction is obvious to the Office was unreasonable. *See Helfgott* v. *Dickinson,* 209 F.3d 1328, 1336, 54 USPQ2d 1425, 1430 (Fed. Cir. 2000). PCT Rule 91, however, has been amended to permit correction of an obvious error only ''if, and only if, it is obvious to the competent authority that, as at the applicable date under [PCT Rule 91(f)], something else was intended than what appears in the document concerned and that nothing else could have been intended than the proposed rectification.'' *See* PCT Rule 91.1(c) (emphasis added). Therefore, any reliance upon the interpretation of the previous version of PCT Rule 91.1 in *Helfgott* should be carefully considered in view of the April 2007 amendment to PCT Rule 91.1. The USPTO will continue to implement PCT Rule 91 under the general authority granted under 35 U.S.C. 364(a), which provides that ''[i]nternational applications shall be processed by the Patent and Trademark Office when acting as a

Receiving Office, International Searching Authority, or International Preliminary Examining Authority, in accordance with the applicable provisions of the treaty, the Regulations, and this title.''

Discussion of Specific Rules

Title 37 of the Code of Federal Regulations, part 1, is amended as follows:

Section 1.17: Section 1.17(t) is amended to set forth the fee for requesting restoration of the right of priority.

Section 1.57: Section 1.57(a)(2) is amended to reflect that omitted portions of international applications, which applicant desires to be effective in other designated States, must be submitted in accordance with PCT Rule 20.

Section 1.437: Section 1.437(a) is amended for clarity and to remove inaccurate language currently present in the paragraph. Section 1.437(b) is deleted to reflect the fact that missing drawings will no longer be treated differently from missing parts of the description or claims. Section 1.437(c) is redesignated as § 1.437(b).

Section 1.445: Section 1.445(a) is amended to set a search fee that more accurately reflects the cost of conducting a search and preparing a Chapter I written opinion in an international application. Recent cost analysis for the search and preparation of search and preparing Chapter I written opinions for international applications reveals that the average cost of this activity is over $1,800.00. Therefore, the Office is revising § 1.445(a) to provide for a search fee (and supplemental search fee) of $1,800.00. In addition, the Office is revising § 1.445(a) to provide that this $1,800.00 search fee is applicable, regardless of whether there is a corresponding prior nonprovisional application under 35 U.S.C. 111(a), a corresponding prior provisional application under 35 U.S.C. 111(b), or no corresponding prior provisional or nonprovisional application under 35 U.S.C. 111. The Office formerly provided a reduced search fee if there is a corresponding prior nonprovisional application under 35 U.S.C. 111(a) and such application is adequately identified in the international application or accompanying papers at the time of filing the international application. The backlog of applications under 35 U.S.C. 111(a) awaiting examination is such that it is no longer deemed appropriate to provide a reduced fee or other incentive for applicants to file an application under 35 U.S.C. 111(a) prior to or essentially parallel with the filing of an international application.

Section 1.452: Section 1.452 is added to provide for restoration of the right of priority in international applications (subject to the enumerated conditions and limitations). Certain changes have been made to this section from the previously proposed language in order to correct or eliminate inconsistencies between the section and the language of the PCT Regulations.

Section 1.452(a) provides that applicants may request restoration of the right of priority if the international application was filed within two months from the expiration of the priority period as defined by PCT Rule 2.4 and the delay in filing the international application was unintentional.

Section 1.452(b) provides that any request for restoration must be filed within fourteen months from the priority date and must be accompanied by: (1) A notice adding the priority claim, if applicable; (2) the requisite fee; and (3) a statement that the delay in filing the international application within the priority period was unintentional.

Section 1.452(c) provides that, in cases where applicant has requested early publication, the requirements under § 1.452(b) must be submitted prior to completion of the technical preparations for international publication.

Section 1.452(d) sets forth that restoration of a priority claim by the United States Receiving Office under this section, or by any other Receiving Office under the provisions of PCT Rule 26*bis*.3, will not entitle applicants to a right of priority in any application which has entered the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right to priority has been restored.

Section 1.465: Section 1.465(b) is amended for clarity and to remove the limitation that the priority claim must be ''valid'' in order to be used as the basis for computing time limits under the PCT.

Section 1.465(c) is deleted as unnecessary, as the obligation of the United States Receiving Office to proceed under PCT Rule 26*bis*.2 arises under 35 U.S.C. 361. In addition, reference to Rule 20.2(a)(i) or (iii) is no longer appropriate in view of the amendments to PCT Rule 20.

Section 1.497: Section 1.497(f)(1) is amended to reference PCT Rule 20.5(c) in that the reference to Rule 20.2 is no longer appropriate in view of the amendments to PCT Rule 20. The change to this section was not included in the previously proposed language, but is necessary in order to correct inconsistencies between the section and the language of the PCT Regulations.

The Office published a notice proposing changes to the rules of practice to conform them to certain amendments made to the Regulations under the Patent Cooperation Treaty (PCT) that became effective on April 1, 2007, and to revise the search fee for international applications. *See April 2007 Revision of Patent Cooperation Treaty Procedures*, 72 FR 7583 (Feb. 16, 2007), 1316 *Off. Gaz. Pat. Office* 59 (Mar. 13, 2007). The Office received five comments (from intellectual property organizations, industry, and an individual patent practitioner) in response to this notice, and these comments are posted on the Office's Internet Web site. The comments and the Office's responses to the comments follow:

Comment 1: Several comments objected to setting the search fee at a level of $1,800.00 on various grounds, including that it will have an impact on PCT users, that it could act as a deterrent to the use of the PCT, and that the amount is inconsistent with the fees charged in a U.S. national application.

Response: The salient point remains that the previous fee levels were significantly inadequate when compared with the actual costs incurred by the USPTO. Based on recent cost analysis for the search and preparation of the search reports and Chapter I written opinions for international applications, the search fee amounts being adopted in this final rule are a more accurate reflection of the average cost of these activities. The Office maintains that applicants seeking patent protection in foreign countries have sufficient alternatives (*e.g.*, using the Paris route or selecting an ISA other than the USPTO/ISA) that the search fee amounts being adopted in this final rule will not have a significant impact on any patent applicant's ability to seek patent protection in foreign countries. That patent applicants also employ the PCT system for other purposes does not warrant maintaining PCT search fee at amounts inadequate to recover the USPTO's actual costs. Further, with regard to the arguments that the fee amount is inconsistent with the fees charged in a U.S. national application, the filing, search, and examination fees for U.S. national applications filed under 35 U.S.C. 111(a) and 371 are not set at an amount that recovers the actual costs of performing the search and

examination of such applications, because the USPTO also collects issue and maintenance fees in U.S. national applications that are allowed and issue as a patent. Since international applications under the PCT do not themselves mature into patents, the fees paid in international applications must more accurately reflect the costs to the Office.

Comment 2: Several comments also objected to the elimination of the reduction in the search fee in applications where there was a prior U.S. nonprovisional application. The commenters argued that some benefit is obtained by the Office even if, as a result in the Office's national application backlog, the search in the international application is performed prior to the search in the U.S. national application due to the fact that the results from the PCT search can then be used in the national application.

Response: As noted in the specific discussion of § 1.445 above, the actual costs related to the international search are over $1800.00. The Office also recognizes that, if there is not a prior nonprovisional application, there is often a later filed national stage application filed under 35 U.S.C. 371, and that some benefit is obtained in that application as a result of the earlier PCT search. The amount of $1800.00 for all international applications, regardless of whether there was a prior nonprovisional application, therefore takes into account both the fact that benefits are obtained when there is a prior national application as well as the fact that there is also some benefit obtained when there is a later filed national stage application.

Comment 3: One comment suggested that, with respect to the fact that the USPTO will only be deciding requests for the restoration of priority under the unintentional standard, the Office should also consider requests under the in spite of due care standard so as to not preclude applicants from the ability of receiving a favorable determination under such standard during the international stage.

Response: The International Bureau has indicated that they will process requests for restoration of priority under both standards. Therefore, for applicants who wish treatment under the in spite of due care standard, and who know at the time of filing that the priority period has expired, they have the option of filing the international application with the International Bureau as receiving Office. For those applicants who find out after they have filed the international application that the priority period has expired, and who desire treatment under the in spite of due care standard, they may request that the application be transferred to the International Bureau as receiving Office under PCT Rule 19.4 in accordance with paragraph 166A. of the receiving Office Guidelines.

Rule Making Considerations

Regulatory Flexibility Act: For the reasons set forth herein, the Deputy General Counsel for General Law of the United States Patent and Trademark Office has certified to the Chief Counsel for Advocacy of the Small Business Administration that the changes in this final rule will not have a significant economic impact on a substantial number of small entities. *See* 5 U.S.C. 605(b). The significant changes in this final rule are: (1) Provisions for a restoration of a right of priority in certain limited situations; and (2) An adjustment of the search and supplemental search fee to more accurately reflect the cost of conducting a search and preparing a Chapter I written opinion in an international application.

The PCT enables United States applicants to file one application (an international or PCT application) in a standardized format in English in the United States Receiving Office (the United States Patent and Trademark Office) and have that application acknowledged as a regular national or regional filing in as many PCT Contracting States as the applicants desire to seek patent protection. *See* Manual of Patent Examining Procedure (MPEP) 1801. The primary benefit of the PCT system is the ability to delay the expense of submitting papers and fees to the PCT national offices. *See* MPEP 1801. The Office, in its capacity as a PCT Receiving Office, received about 42,900 international applications in fiscal year 2002, about 43,000 international applications in fiscal year 2003, about 45,400 international applications in fiscal year 2004, about 46,900 international applications in fiscal year 2005, and about 52,900 international applications in fiscal year 2006.

35 U.S.C. 376(b) provides that the Director shall prescribe the amount of the search fee, the supplemental search fee, and such other fees as established by the Director. Pursuant to the authority in 35 U.S.C. 376(b), this final rule adjusts the search fee in § 1.445(b)(2)(iii) and the supplemental search fee in § 1.445(b)(3) from $1,000.00 to $1,800.00 (an increase of $800.00). This adjustment to the search fee and supplemental search fee makes these fees more accurately reflect the cost of conducting a search and preparing a Chapter I written opinion in an international application.

The PCT does not preclude United States applicants from filing patent applications directly in the patent offices of those countries which are Contracting States of the PCT (with or without previously having filed a regular national application under 35 U.S.C. 111(a) or 111(b) in the United States) and taking advantage of the priority rights and other advantages provided under the Paris Convention and the World Trade Organization (WTO) administered Agreement on Trade-Related Aspects of Intellectual Property (TRIPs Agreement). *See* MPEP 1801. That is, the PCT is not the exclusive mechanism for seeking patent protection in foreign countries, but is instead simply an optional alternative route available to United States patent applicants for seeking patent protection in those countries that are Contracting States of the PCT. *See id.*

In addition, an applicant filing an international application under the PCT in the United States Receiving Office (the United States Patent and Trademark Office) is not required to use the United States Patent and Trademark Office as the International Searching Authority. The European Patent Office (except for applications containing business method claims) or the Korean Intellectual Property Office may be elected as the International Searching Authority for international applications filed in the United States Receiving Office. The applicable search fee if the European Patent Office is elected as the International Searching Authority European is $2,059.00 (set by the European Patent Office), and the applicable search fee if the Korean Intellectual Property Office is elected as the International Searching Authority is $232.00 (set by the Korean Intellectual Property Office).

In 2003, the Government Accountability Office (GAO) released a report containing the results of a survey of an expert panel of patent law attorneys concerning small businesses considering foreign patent protection with respect to the ''cradle to grave'' costs of foreign patent protection. *See Experts' Advice for Small Businesses Seeking Foreign Patents*, GAO–03–910 (2003). The GAO concluded that the cost of obtaining and maintaining foreign patents to be in the range of $160,000 to $330,000. *See id.* at 41. Therefore, the international search fee increase of $800.00 is not significant in comparison to the overall costs that a small entity must incur to obtain international patent protection.

Pursuant to the authority in 35 U.S.C. 376(b), this final rule eliminates the reduced search fee in § 1.445(b)(2)(i) or (ii) when there is a corresponding prior nonprovisional application under 35 U.S.C. 111(a) and thereby adjusts the search fee in the situation in which there is a corresponding prior nonprovisional application under 35 U.S.C. 111(a) from $300.00 to $1,800.00 (an increase of $1,500.00). An applicant, however, has the option of filing a provisional application under 35 U.S.C. 111(b) (rather than a nonprovisional application under 35 U.S.C. 111(a)) or not filing a prior application before filing an international application. This adjustment to the search fee is also to make these fees more accurately reflect the cost of conducting a search and preparing a Chapter I written opinion in an international application. As discussed previously, the PCT is not the exclusive mechanism for seeking patent protection in foreign countries, and an applicant filing an international application is not required to use the United States Patent and Trademark Office as the International Searching Authority.

Pursuant to the authority in 35 U.S.C. 376(b), this final rule establishes a fee for filing a request for the restoration of the right of priority of $1,370.00. This fee amount is identical to the fee amount for petitions to accept an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) (37 CFR 1.55 and 1.78). In addition, the Office anticipates that very few applicants will file a request for the restoration of the right of priority (about 100 each year, in comparison to the over 50,000 international applications filed in the United States Receiving Office each year).

For the reasons stated previously, the changes in this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132: This rule making does not contain policies with federalism implications sufficient to warrant preparation of a Federalism Assessment under Executive Order 13132 (Aug. 4, 1999).

Executive Order 12866: This rule making has been determined to be significant for purposes of Executive Order 12866 (Sept. 30, 1993).

Paperwork Reduction Act: This notice involves information collection requirements which are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The collection of information involved in this notice has been reviewed and approved by OMB under OMB control number 0651–0021. The United States Patent and Trademark Office is not resubmitting an information collection package to OMB for its review and approval because the changes in this notice do not affect the information collection requirements associated with the information collection under OMB control number 0651–0021.

Interested persons are requested to send comments regarding these information collections, including suggestions for reducing this burden, to: (1) The Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10202, 725 17th Street, NW., Washington, DC 20503, Attention: Desk Officer for the Patent and Trademark Office; and (2) Robert A. Clarke, Director, Office of Patent Legal Administration, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313–1450.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB control number.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of Information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

■ For the reasons set forth in the preamble, 37 CFR part 1 is amended as follows:

PART 1—RULES OF PRACTICE IN PATENT CASES

■ 1. The authority citation for 37 CFR part 1 continues to read as follows:

Authority: 35 U.S.C. 2(b)(2).

■ 2. Section 1.17 is amended by revising paragraph (t) to read as follows:

§ 1.17 Patent application and reexamination processing fees.

* * * * *

(t) For the acceptance of an unintentionally delayed claim for priority under 35 U.S.C. 119, 120, 121, or 365(a) (§§ 1.55 and 1.78) or for filing a request for the restoration of the right of priority under § 1.452.....$1,370.00.

■ 3. Section 1.57 is amended by revising paragraph (a)(2) to read as follows:

§ 1.57 Incorporation by reference.

(a) * * *

(2) Any amendment to an international application pursuant to this paragraph shall be effective only as to the United States, and shall have no effect on the international filing date of the application. In addition, no request under this section to add the inadvertently omitted portion of the specification or drawings in an international application designating the United States will be acted upon by the Office prior to the entry and commencement of the national stage (§ 1.491) or the filing of an application under 35 U.S.C. 111(a) which claims benefit of the international application. Any omitted portion of the international application which applicant desires to be effective as to all designated States, subject to PCT Rule 20.8(b), must be submitted in accordance with PCT Rule 20.

* * * * *

■ 4. Section 1.437 is revised to read as follows:

§ 1.437 The drawings.

(a) Drawings are required when they are necessary for the understanding of the invention (PCT Art. 7).

(b) The physical requirements for drawings are set forth in PCT Rule 11 and shall be adhered to.

■ 5. Section 1.445 is amended by revising paragraphs (a)(2) and (a)(3) to read as follows:

§ 1.445 International application filing, processing and search fees.

(a) * * *

(2) A search fee (see 35 U.S.C. 361(d) and PCT Rule 16).....$1,800.00.

(3) A supplemental search fee when required, per additional invention.....$1,800.00.

* * * * *

■ 6. Section 1.452 is added to read as follows:

§ 1.452 Restoration of right of priority.

(a) If the international application has an international filing date which is later than the expiration of the priority period as defined by PCT Rule 2.4 but within two months from the expiration of the priority period, the right of priority in the international application may be restored upon request if the delay in filing the international application within the priority period was unintentional.

(b) A request to restore the right of priority in an international application under paragraph (a) of this section must be filed not later than two months from the expiration of the priority period and must include:

(1) A notice under PCT Rule 26*bis*.1(a) adding the priority claim, if the priority claim in respect of the earlier application is not contained in the international application;

(2) The fee set forth in § 1.17(t); and

(3) A statement that the delay in filing the international application within the priority period was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

(c) If the applicant makes a request for early publication under PCT Article 21(2)(b), any requirement under paragraph (b) of this section filed after the technical preparations for international publication have been completed by the International Bureau shall be considered as not having been submitted in time.

(d) Restoration of a right of priority to a prior application by the United States Receiving Office under this section, or by any other Receiving Office under the provisions of PCT Rule 26*bis*.3, will not entitle applicants to a right of priority in any application which has entered the national stage under 35 U.S.C. 371, or in any application filed under 35 U.S.C. 111(a) which claims benefit under 35 U.S.C. 120 and 365(c) to an international application in which the right to priority has been restored.

■ 7. Section 1.465 is amended by revising paragraph (b) to read as follows:

§ 1.465 Timing of application processing based on the priority date.

* * * * *

(b) When a claimed priority date is corrected under PCT Rule 26*bis*.1(a), or a priority claim is added under PCT Rule 26*bis*.1(a), withdrawn under PCT Rule 90*bis*.3, or considered not to have been made under PCT Rule 26*bis*.2, the priority date for the purposes of computing any non-expired time limits will be the filing date of the earliest remaining priority claim under PCT Article 8 of the international application, or if none, the international filing date.

* * * * *

■ 8. Section 1.497 is amended by revising paragraph (f)(1) to read as follows:

§ 1.497 Oath or declaration under 35 U.S.C. 371(c)(4).

* * * * *

(f) * * *

(1) There was a change in the international filing date pursuant to PCT Rule 20.5(c) after the declaration was executed; or

* * * * *

Dated: August 31, 2007.

Jon W. Dudas,

Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office.

[FR Doc. E7–17711 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–16–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2007–0497; A–1–FRL–8463–6]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Revised Carbon Monoxide Maintenance Plan for Nashua

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This SIP submittal contains revisions to the carbon monoxide (CO) maintenance plan for Nashua, New Hampshire. Specifically, New Hampshire has revised the contingency plan portion of the original maintenance plan. The intended effect of this action is to approve this revision to the Nashua CO maintenance plan. This action is being taken in accordance with the Clean Air Act.

DATES: This direct final rule will be effective November 9, 2007, unless EPA receives adverse comments by October 10, 2007. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R01–OAR–2007–0497 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: arnold.anne@epa.gov.*

3. *Fax:* (617) 918–0047.

4. *Mail:* ''Docket Identification Number EPA–R01–OAR–2007–0497,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114–2023.

5. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114–2023. 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 legal holidays.

Instructions: Direct your comments to Docket ID No. EPA–R01–OAR–2007–0497. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through www.regulations.gov, or e-mail, information that you consider to be CBI or otherwise protected. The www.regulations.gov Web site is an ''anonymous access'' systems, 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.

Docket: All documents in the electronic docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100, Boston, MA. EPA requests that if at all possible, you contact the

contact 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 legal holidays.

In addition, copies of the state submittal and EPA's technical support document are also available for public inspection during normal business hours, by appointment at the State Air Agency; Air Resources Division, Department of Environmental Services, 6 Hazen Drive, P.O. Box 95, Concord, NH 03302–0095.

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, Air Quality Planning Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, telephone number (617) 918–1045, fax number (617) 918–0045, e-mail *judge.robert@epa.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background and Purpose
II. What action is EPA taking?
III. Summary of SIP Revision
IV. EPA's Evaluation of the SIP Revision
V. Final Action
VI. Statutory and Executive Order Reviews

I. Background and Purpose

On May 30, 2007, the State of New Hampshire submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of a minor modification to the carbon monoxide (CO) maintenance plan for Nashua, New Hampshire. (A redesignation request and a maintenance plan for the Nashua CO nonattainment area were approved by EPA on November 29, 2000 (65 FR 71060).) The modification changes the triggering mechanism which will be used by the State to determine if contingency measures need to be implemented in Nashua. The end result of this action will be to allow the discontinuation of CO monitoring in the Nashua maintenance area.

II. What action is EPA taking?

EPA is approving revisions to the Nashua carbon monoxide maintenance plan submitted by the State of New Hampshire on May 30, 2007. Specifically, EPA is approving the State's modification of the portion of the maintenance plan used to determine when contingency measures need to be triggered to reduce CO concentrations in Nashua.

New Hampshire's SIP revision and EPA's evaluation of this SIP revision are discussed below. Additional details are also provided in a memorandum dated July 27, 2007, entitled ''Technical Support Document for Revision to the Carbon Monoxide Maintenance Plan for Nashua, New Hampshire,'' (TSD). The TSD and New Hampshire's submittal are available in the docket supporting this action.

III. Summary of SIP Revision

On May 30, 2007, the New Hampshire Department of Environmental Services submitted a SIP revision to EPA that contains a modification to their CO maintenance plan for the Nashua CO maintenance area. The modifications to the maintenance plan change the triggering mechanism by which contingency measures would be implemented and will allow the State to discontinue CO monitoring in the Nashua maintenance area. CO concentrations measured in Nashua have been below the National Ambient Air Quality Standard (NAAQS) for nearly 20 years, and in recent years, maximum measured concentrations have been less than 50% of the 9 parts per million 8-hour CO standard. In this SIP revision, the State of New Hampshire is establishing an alternative triggering mechanism, which will rely on CO data from a nearby CO monitor in Manchester, New Hampshire.

Section 6.5.3 of the State's currently approved CO maintenance plan, entitled ''Selection of a Nonattainment Indicator,'' includes a triggering mechanism based on levels at the CO monitor in Nashua. Under the current maintenance plan, contingency measures in Nashua are triggered when a violation of the CO NAAQS is measured in Nashua. Under the revised maintenance plan, New Hampshire will rely on data from the Manchester CO monitor to determine when and if monitoring will be reestablished in the Nashua maintenance area, and, in some circumstances, when contingency measures will be triggered in the Nashau maintenance area. The revised maintenance plan language is found below:

''For the purposes of this plan, New Hampshire will be discontinuing CO monitoring in Nashua upon EPA approval of this revised plan. New Hampshire DES will continue to collect and review CO monitoring data from nearby Manchester, NH on an on-going basis. In the event the second highest CO concentration in any calendar year monitored in Manchester reaches 75 percent of the federal 1-hour or 8-hour national ambient air quality standard for CO, New Hampshire will, within 9 months of recording such concentrations, re-establish a CO monitoring site in Nashua consistent with EPA siting criteria, and resume analyzing and reporting those data. New Hampshire will continue to commit to implement its contingency program in Nashua in the event that a CO violation (the 'contingency trigger') is monitored at the re-established Nashua monitoring site at any time during the maintenance period and to consider one or more of the other EPA-approved measures listed in Section 6.5.2 if necessary to reduce CO levels.

If the Manchester CO monitor measures a violation of either the federal 1-hour or 8-hour NAAQS for CO, the contingency measures in Section 6.5.2 will be implemented in Nashua as well, until a re-established Nashua CO monitor shows that the area is attainment of the CO standard.

When implementing contingency measures, New Hampshire will review and implement the measures necessary to remedy the violation, including transportation control measures (TCM) or other additional vehicle or fuel controls.''

IV. EPA's Evaluation of the SIP Revision

EPA agrees that the mechanism described above represents an acceptable contingency triggering mechanism for the Nashua CO maintenance plan. Approval of this revised triggering mechanism will allow New Hampshire DES to discontinue monitoring in the Nashua area, which we believe is appropriate for this area which is currently measuring concentrations well below the existing 1-hour and 8-hour CO NAAQS. Under this plan, we believe air quality goals can be maintained, and State monitoring resources conserved.

On October 17, 2006, EPA published a final monitoring rule revising the minimum monitoring requirements. That rule explicitly recognized that, in some cases where measured levels of pollutants are low, shutting down certain CO monitors may be allowed. The rule, however, also explicitly provides that if a monitor is the only monitor in the area, and it serves as a trigger to implement a contingency measure in an EPA-approved maintenance plan, the maintenance plan would need to be revised, and the trigger replaced. (See 71 FR 61250 and 71 FR 61301.)

As described above, this action is approving a change to the mechanism that New Hampshire will use to determine when contingency measures need to be triggered to reduce CO concentrations in Nashua. Previously, the State would implement a contingency measure based on concentrations of CO monitored in Nashua. In light of the fact that Nashua CO concentrations have been well below the standard for some time, the State is looking to conserve resources. New Hampshire DES wants to use its CO monitor in Manchester, a nearby city, to aid in determining if Nashua has

a CO problem. Nashua and Manchester (both in Hillsborough County) are less than 20 miles apart, have similar populations, and both have had CO concentrations similar to each other for years. (The TSD provides a comparison of the data collected at the Nashua and Manchester CO monitors over the past several decades.) Both cities were designated nonattainment in 1990 for CO ''by operation of law,'' though both had design values below the standard at that time. In both cases, only the city itself was designated nonattainment since data did not support an expansion of the nonattainment area. Both cities were redesignated to attainment in 2000, and both have measured CO concentrations well below the standard since that time.

In order to conserve resources, the State is seeking to discontinue monitoring in Nashua since current air quality levels do not warrant the additional expense of running a CO monitor in this area. The State has committed to continue CO monitoring in Manchester, and will reestablish CO monitoring in Nashua if air quality in Manchester degrades significantly. Starting in the early 1970s, EPA has set national standards that have considerably reduced emissions of CO and other pollutants from motor vehicles, including tailpipe emissions, new vehicle technologies, and clean fuels programs. Because of this, EPA believes that it is unlikely that either maintenance area will exceed the CO NAAQS again. Thus, we believe that the revisions that New Hampshire has made to its maintenance plan will continue to protect the citizens of New Hampshire from high CO concentrations, and also conserve resources.

V. Final Action

EPA is approving revisions to the Nashua CO maintenance plan submitted by the State of New Hampshire on May 30, 2007. Specifically, EPA is approving the State's request to modify the portion of the maintenance plan used to determine when contingency measures need to be implemented in Nashua. As described in more detail above, the State will shut down the Nashua CO monitor and rely on data from the CO monitor in Manchester to determine when and if monitoring will be reestablished in the Nashua maintenance area, and, in some circumstances, when contingency measures will be triggered in the Nashua maintenance area.

The EPA is publishing this action without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision should relevant adverse comments be filed. This rule will be effective November 9, 2007 without further notice unless the Agency receives relevant adverse comments by October 10, 2007.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on the proposed rule. All parties interested in commenting on the proposed rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on November 9, 2007 and no further action will be taken on the proposed rule. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

VI. Statutory and Executive Order Reviews

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

This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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 Clean Air 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 rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

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

This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by November 9, 2007. Interested parties should comment in response to the proposed rule rather than petition for judicial review, unless the objection arises after the comment period allowed for in the proposal. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and recordkeeping requirements.

Dated: August 22, 2007.

Ira Leighton,

Acting Regional Administrator, EPA New England.

■ Part 52 of chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart EE—New Hampshire

■ 2. Section 52.1528 is amended by adding paragraph (d) to read as follows:

§ 52.1528 Control strategy: Carbon monoxide.

* * * * *

(d) Approval—On May 30, 2007, the New Hampshire Department of Environmental Services submitted a modification to the Nashua maintenance plan approved in paragraph (c) of this section. New Hampshire will not conduct CO monitoring in Nashua, but instead commits to continue to collect and review CO monitoring data from nearby Manchester, NH on an on-going basis. In the event the second highest CO concentration in any calendar year monitored in Manchester reaches 75 percent of the federal 1-hour or 8-hour national ambient air quality standard for CO, New Hampshire will, within 9 months of recording such concentrations, re-establish a CO monitoring site in Nashua consistent with EPA siting criteria, and resume analyzing and reporting those data. New Hampshire commits to implement its contingency program in Nashua in the event that a CO violation is monitored at the re-established Nashua monitoring site at any time during the maintenance period. If the Manchester CO monitor measures a violation of the either the federal 1-hour or 8-hour NAAQS for CO, contingency measures will be implemented in Nashua as well, until a re-established CO monitor in Nashua shows that the area is in attainment of the CO standard.

[FR Doc. E7–17633 Filed 9–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R05–OAR–2006–0046; FRL–8464–3]

Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Ohio; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects an error pertaining to the Motor Vehicle Emissions Budgets (MVEBs) for Belmont County, Ohio (Wheeling, WV–OH). The 2009 MVEB for oxides of nitrogen (NO_X) from the proposed rule was incorrect in the final action. This final rule corrects that error.

DATES: *Effective Date:* This final rule is effective on September 10, 2007.

FOR FURTHER INFORMATION CONTACT: Steve Marquardt, Environmental Engineer, Criteria Pollutant Section, Air Programs Branch (AR–18J), Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604, (312) 353–3214, *marquardt.steve@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA published four notices of final rulemaking to redesignate Washington County (Parkersburg-Marietta, WV–OH), Jefferson County (Steubenville-Weirton, WV–OH), Belmont County (Wheeling, WV–OH), Stark County (Canton, OH) and Allen County (Lima, OH) areas to attainment for the 8-hour ozone standard. For each of these counties EPA had proposed approval of the 2009 and 2018 MVEBs. In each of the final rulemaking notices, EPA omitted the 2009 MVEBs from the final rules. A correction was made to add these 2009 MVEBs. When this correction was made there was an error in the 2009 MVEB for NO_X for Belmont County, Ohio. This error is corrected in this action.

Correction

For Belmont County, Ohio, in the correction notice published in the **Federal Register** on July 5, 2007 (72 FR 36599), on page 36599 in the third column, second full paragraph: ''In addition, and supported by and consistent with the ozone maintenance plan, EPA is approving the 2018 VOC and NO_X MVEBs for transportation conformity purposes. The 2018 MVEBs * * *.'' is to read: ''In addition, and supported by and consistent with the ozone maintenance plan, EPA is approving the 2009 and 2018 VOC and NO_X MVEBs for transportation conformity purposes. For Belmont County, Ohio, the 2009 MVEBs are 2.60 tons per day of VOC and 4.69 tons per day of NO_X and the 2018 MVEBs are 1.52 tons per day of VOC and 1.91 tons per day of NO_X. West Virginia develops MVEBs for its portion of the area.''

EPA is revising 40 CFR Section 52.1885(ff)(2) to reflect this corrected 2009 MVEB for NO_X for Belmont County, Ohio.

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 we are merely correcting an error 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 (E.O.) 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 is not economically significant.

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 are 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 September 10, 2007. 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 40 CFR part 52 for Ohio 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, Intergovernmental relations, Nitrogen dioxide, Ozone, Particulate matter, Volatile organic compounds.

Dated: August 24, 2007.

Richard C. Karl,

Acting Regional Administrator, Region 5.

■ Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

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

Subpart KK—Ohio

■ 2. Section 52.1885 is amended by revising paragraph (ff)(2) to read as follows:

§ 52.1885 Control strategy: Ozone.

* * * * *

(ff) * * *

(2) Belmont County, as submitted on June 20, 2006, and supplemented on August 24, 2006, and December 4, 2006. The maintenance plan establishes 2009 MVEBs for Belmont County of 2.60 tpd of VOC and 4.69 tpd of NO_X, and 2018 MVEBs of 1.52 tpd of VOCs and 1.91 tpd of NO_X.

* * * * *

[FR Doc. E7–17627 Filed 9–7–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF STATE

48 CFR Parts 639 and 652

[Public Notice: 5929]

RIN 1400–AC31

Department of State Acquisition Regulation

AGENCY: State Department.

ACTION: Final rule.

SUMMARY: This final rule adds a solicitation provision and contract clause to the Department of State Acquisition Regulation (DOSAR) to implement Department of State requirements regarding security issues for information technology systems, as required by the Federal Information Security Management Act of 2002 (FISMA).

DATES: *Effective Date:* This rule is effective September 10, 2007.

FOR FURTHER INFORMATION CONTACT: Gladys Gines, Procurement Analyst, Office of the Procurement Executive, 2201 C Street, NW., State Annex Number 6, Room 603, Washington, DC 20522–0602; telephone number: 703–516–1691; e-mail address: *ginesgg@state.gov*.

SUPPLEMENTARY INFORMATION: The Department published a proposed rule, Public Notice 5836 at 72 FR 35023, June 26, 2007, with a request for comments. The rule was proposed to implement the information technology (IT) security policies of the Department for contracts that include information technology resources for services in which the contractor has physical or electronic access to Department information that directly supports the mission of the Department. The rule was discussed in detail in Public Notice 5836. No public comments were received. The Department is now promulgating a final rule with no changes from the proposed rule.

Regulatory Findings

Administrative Procedure Act

The Department of State does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and

principles set forth in that Executive Order.

Regulatory Flexibility Act

The Department of State, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this regulation and, by approving it, certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Act of 1995

This rule will not 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 year and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Act of 1996. This rule will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign based companies in domestic and import markets.

Executive Order 12866

The Department of State does not consider this rule to be a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review. In addition, the Department is exempt from Executive Order 12866 except to the extent that it is promulgating regulations in conjunction with a domestic agency that are significant regulatory actions. The Department has nevertheless reviewed the regulation to ensure its consistency with the regulatory philosophy and principles set forth in that Executive Order.

Executive Order 12988—Civil Justice Reform

The Department has reviewed this regulation in light of sections 3(a) and 3(b)(2) of Executive Order 12988 to eliminate ambiguity, minimize litigation, establish clear legal standards, and reduce burden.

Executive Orders 12372 and 13132—Federalism

This regulation will not have 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. Therefore, in accordance with section 6 of Executive Order 13132, it is determined that this rule does not have sufficient federalism implications to require consultations or warrant the preparation of a federalism summary impact statement. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this regulation.

National Environmental Policy Act

The Department has analyzed this regulation for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347) and has determined that it will not have any effect on the quality of the environment.

Paperwork Reduction Act

This rule does not impose any new reporting or recordkeeping requirements subject to the Paperwork Reduction Act, 44 U.S.C. Chapter 35.

List of Subjects in 48 CFR Parts 639 and 652

Government procurement.

■ Accordingly, for reasons set forth in the preamble, title 48, chapter 6 of the Code of Federal Regulations is amended as follows:

■ 1. The authority citation for 48 CFR parts 639 and 652 continue to read as follows:

Authority: 40 U.S.C. 486(c); 22 U.S.C. 2658.

Subchapter F—Special Categories of Contracting

PART 639—ACQUISITION OF INFORMATION TECHNOLOGY

■ 2. A new Part 639, consisting of subpart 639.1, sections 639.107 and 639.107–70, is added to subchapter F as follows:

PART 639—ACQUISITION OF INFORMATION TECHNOLOGY

Subpart 639.1—General

639.107 Contract clause.

639.107–70 DOSAR solicitation provision and contract clause.

(a) The contracting officer shall insert the provision at 652.239–70, Information Technology Security Plan and Accreditation, in solicitations that include information technology resources or services in which the contractor will have physical or electronic access to Department information that directly supports the mission of the Department.

(b) The contracting officer shall insert the clause at 652.239–71, Security Requirements for Unclassified Information Technology Resources, in solicitations and contracts containing the provision at 652.239–70. The provision and clause shall not be inserted in solicitations and contracts for personal services with individuals.

Subchapter H—Clauses and Forms

PART 652—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

■ 3. Section 652.239–70 is added to read as follows:

652.239–70 Information Technology Security Plan and Accreditation.

As prescribed in 639.107–70(a), insert the following provision:

Information Technology Security Plan and Accreditation (SEP 2007)

All offers/bids submitted in response to this solicitation must address the approach for completing the security plan and certification and accreditation requirements as required by the clause at 652.239–71, Security Requirements for Unclassified Information Technology Resources.

(End of provision)

■ 4. Section 652.239–71 is added to read as follows:

652.239–71 Security Requirements for Unclassified Information Technology Resources.

As prescribed in 639.107–70(b), insert the following clause:

Security Requirements for Unclassified Information Technology Resources (SEP 2007)

(a) *General.* The Contractor shall be responsible for information technology (IT) security, based on Department of State (DOS) risk assessments, for all systems connected to a Department of State (DOS) network or operated by the Contractor for DOS, regardless of location. This clause is applicable to all or any part of the contract that includes information technology resources or services in which the Contractor has physical or electronic access to DOS's information that directly supports the mission of DOS. The term ''information technology'', as used in this clause, means any equipment, including telecommunications equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange,

transmission, or reception of data or information. This includes both major applications and general support systems as defined by OMB Circular A–130. Examples of tasks that require security provisions include:

(1) Hosting of DOS e-Government sites or other IT operations;

(2) Acquisition, transmission or analysis of data owned by DOS with significant replacement cost should the Contractor's copy be corrupted; and

(3) Access to DOS general support systems/major applications at a level beyond that granted the general public; e.g., bypassing a firewall.

(b) *IT Security Plan.* The Contractor shall develop, provide, implement, and maintain an IT Security Plan. This plan shall describe the processes and procedures that will be followed to ensure appropriate security of IT resources that are developed, processed, or used under this contract. The plan shall describe those parts of the contract to which this clause applies. The Contractor's IT Security Plan shall comply with applicable Federal laws that include, but are not limited to, 40 U.S.C. 11331, the Federal Information Security Management Act (FISMA) of 2002, and the E-Government Act of 2002. The plan shall meet IT security requirements in accordance with Federal and DOS policies and procedures, as they may be amended from time to time during the term of this contract that include, but are not limited to:

(1) OMB Circular A–130, Management of Federal Information Resources, Appendix III, Security of Federal Automated Information Resources;

(2) National Institute of Standards and Technology (NIST) Guidelines (see NIST Special Publication 800–37, Guide for the Security Certification and Accreditation of Federal Information Technology Systems (*http://csrc.nist.gov/publications/nistpubs/800-37/SP800–37-final.pdf*)); and

(3) Department of State information security sections of the Foreign Affairs Manual (FAM) and Foreign Affairs Handbook (FAH) (*http://foia.state.gov/Regs/Search.asp*), specifically:

(i) 12 FAM 230, Personnel Security;

(ii) 12 FAM 500, Information Security (sections 540, 570, and 590);

(iii) 12 FAM 600, Information Security Technology (section 620, and portions of 650);

(iv) 5 FAM 1060, Information Assurance Management; and

(v) 5 FAH 11, Information Assurance Handbook.

(c) *Submittal of IT Security Plan.* Within 30 days after contract award, the Contractor shall submit the IT Security Plan to the Contracting Officer and Contracting Officer's Representative (COR) for acceptance. This plan shall be consistent with and further detail the approach contained in the contractor's proposal or sealed bid that resulted in the award of this contract and in compliance with the requirements stated in this clause. The plan, as accepted by the Contracting Officer and COR, shall be incorporated into the contract as a compliance document. The Contractor shall comply with the accepted plan.

(d) *Accreditation.* Within six (6) months after contract award, the Contractor shall submit written proof of IT security accreditation for acceptance by the Contracting Officer. Such written proof may be furnished either by the Contractor or by a third party. Accreditation must be in accordance with NIST Special Publication 800–37. This accreditation will include a final security plan, risk assessment, security test and evaluation, and disaster recovery plan/continuity of operations plan. This accreditation, when accepted by the Contracting Officer, shall be incorporated into the contract as a compliance document, and shall include a final security plan, a risk assessment, security test and evaluation, and disaster recovery/continuity of operations plan. The Contractor shall comply with the accepted accreditation documentation.

(e) *Annual verification.* On an annual basis, the Contractor shall submit verification to the Contracting Officer that the IT Security Plan remains valid.

(f) *Warning notices.* The Contractor shall ensure that the following banners are displayed on all DOS systems (both public and private) operated by the Contractor prior to allowing anyone access to the system:

Government Warning

WARNINGWARNING**WARNING**

Unauthorized access is a violation of U.S. law and Department of State policy, and may result in criminal or administrative penalties. Users shall not access other user's or system files without proper authority. Absence of access controls IS NOT authorization for access! DOS information systems and related equipment are intended for communication, transmission, processing and storage of U.S. Government information. These systems and equipment are subject to monitoring by law enforcement and authorized Department officials. Monitoring may result in the acquisition, recording, and analysis of all data being communicated, transmitted, processed or stored in this system by law enforcement and authorized Department officials. Use of this system constitutes consent to such monitoring.

WARNINGWARNING**WARNING**

(g) *Privacy Act notification.* The Contractor shall ensure that the following banner is displayed on all DOS systems that contain Privacy Act information operated by the Contractor prior to allowing anyone access to the system:

This system contains information protected under the provisions of the Privacy Act of 1974 (Pub. L. 93–579). Any privacy information displayed on the screen or printed shall be protected from unauthorized disclosure. Employees who violate privacy safeguards may be subject to disciplinary actions, a fine of up to $5,000, or both.

(h) *Privileged or limited privileged access.* Contractor personnel requiring privileged access or limited privileged access to systems operated by the Contractor for DOS or interconnected to a DOS network shall adhere to the specific contract security requirements contained within this contract and/or the Contract Security Classification Specification (DD Form 254).

(i) *Training.* The Contractor shall ensure that its employees performing under this contract receive annual IT security training in accordance with OMB circular A–130, FISMA, and NIST requirements, as they may be amended from time to time during the term of this contract, with a specific emphasis on rules of behavior.

(j) *Government access.* The Contractor shall afford the Government access to the Contractor's and subcontractor's facilities, installations, operations, documentation, databases and personnel used in performance of the contract. Access shall be provided to the extent required to carry out a program of IT inspection (to include vulnerability testing), investigation and audit to safeguard against threats and hazards to the integrity, availability and confidentiality of DOS data or to the function of information technology systems operated on behalf of DOS, and to preserve evidence of computer crime.

(k) *Subcontracts.* The Contractor shall incorporate the substance of this clause in all subcontracts that meet the conditions in paragraph (a) of this clause.

(l) *Notification regarding employees.* The Contractor shall immediately notify the Contracting Officer when an employee either begins or terminates employment when that employee has access to DOS information systems or data.

(m) *Termination.* Failure on the part of the Contractor to comply with the terms of this clause may result in termination of this contract.

(End of clause)

Dated: August 28, 2007.

Corey M. Rindner,

Procurement Executive, Bureau of Administration, Department of State.

[FR Doc. E7–17752 Filed 9–7–07; 8:45 am]

BILLING CODE 4710–24–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[I.D. 041307D]

RIN 0648–AU68

Fisheries of the Exclusive Economic Zone Off Alaska; Allocating Bering Sea and Aleutian Islands Area Fishery Resources; Notice of Amendment 80 Public Workshop

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

ACTION: Notification of public workshop.

SUMMARY: NMFS will present a public workshop on the implementation of the Amendment 80 Program (Program) for potentially eligible participants and other interested parties. The Program

implements a limited access privilege program (LAPP) for specific groundfish fisheries in the Bering Sea and Aleutian Islands management area (BSAI). At the workshop, NMFS will provide an overview of the Program, discuss the key Program elements, describe the process for participating in the Program, and answer questions. NMFS is conducting this public workshop to provide assistance to fishery participants in understanding and reviewing this Program.

DATES: The workshop will be held on Monday, September 24, 2007, 1 p.m. to 4 p.m. Pacific standard time.

ADDRESSES: The workshop will be held at the Swedish Cultural Center, 1920 Dexter Avenue N., Seattle, WA 98109.

FOR FURTHER INFORMATION CONTACT: Glenn Merrill, 907–586–7228 or *glenn.merrill@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS will publish a final rule that will implement a LAPP for Amendment 80 to the Fishery Management Plan for BSAI Groundfish (FMP) in mid-September, 2007. Among other things, Amendment 80 will allocate specific BSAI groundfish resources among a defined group of harvesters under a LAPP; limit the bycatch of halibut and crab resources; assign Amendment 80 quota share (QS) that can be used to yield an exclusive harvest privilege on an annual basis; allow Amendment 80 QS holders to form a cooperative with other Amendment 80 QS holders on an annual basis to receive an exclusive harvest privilege; implement use caps to limit the amount of Amendment 80 QS a person can hold; limit the total amount of catch in other groundfish fisheries that could be taken by participants in the Program; ensure minimum retention of groundfish while fishing in the BSAI; and establish necessary monitoring and enforcement standards.

Amendment 80 was approved by the North Pacific Fishery Management Council (Council) on June 9, 2006. NMFS published a proposed rule to implement the Program on May 30, 2007 (72 FR 30052). The Secretary of Commerce approved Amendment 80 on July 26, 2007. The Program implements Amendment 80 and also meets the requirements of:

- Section 219 of the Consolidated Appropriations Act of 2005 (Public Law 108–447; December 8, 2004), which defined the Amendment 80 sector and implemented a capacity reduction program for several catcher/processor sectors;
- Section 416 of the Coast Guard and Maritime Transportation Act of 2006 (Public Law 109–241; July 11, 2006), which amended provisions of the Community Development Quota (CDQ) Program in the Magnuson-Stevens Fishery Conservation and Management Act; and
- The Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Public Law 109–479, January 12, 2007), which modified provisions related to the CDQ Program and instituted other measures applicable to LAPPs.

NMFS is conducting a public workshop to provide assistance to fishery participants in reviewing the requirements of the Program. At the workshop, NMFS will provide an overview of the Program, and discuss the key Program elements, including quota share application; cooperative and limited access participation provisions; cooperative quota transfer provisions; the appeals process; monitoring and enforcement; and electronic reporting. Additionally, NMFS will answer questions from workshop participants. For further information on the Program, please visit the NMFS Alaska Region website at *http://www.fakr.noaa.gov*.

Special Accommodations

This workshop is physically accessible to people with disabilities. Requests for special accommodations should be directed to Glenn Merrill (see **FOR FURTHER INFORMATION CONTACT**) at least 5 working days before the workshop date.

Dated: September 4, 2007.

Emily H. Menashes

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

[FR Doc. E7–17772 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 174
Monday, September 10, 2007

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.

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Testimony by TVA Employees, Production of Official Records, and Disclosure of Official Information in Legal Proceedings

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Proposed rule; comment request.

SUMMARY: The Tennessee Valley Authority (''TVA'') seeks public comment on a proposed rule that would govern access to TVA information and records in connection with legal proceedings in which neither the United States nor TVA is a party. The rule, tracking similar regulations issued by many other federal agencies, would establish guidelines for use in determining whether TVA employees will provide testimony or records relating to their official duties. The rule would also establish procedures for requesters to follow when making demands on or requests to a TVA employee for official documents or to provide testimony. The proposed rule will standardize TVA's past practices, promote uniformity in decisions, conserve the ability of TVA to conduct official business, preserve its employee resources, protect confidential information, provide guidance to requestors, minimize involvement in matters unrelated to TVA's mission and programs, avoid wasteful allocation of agency resources, and avoid spending public time and money for private purpose.

DATES: Comments must be received on or before October 10, 2007.

ADDRESSES: Send or deliver comments to the Office of the General Counsel, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, Tennessee 37902 by mail or fax at (865) 632–4528. Comments may also be submitted electronically to *npgoschy@tva.gov*, with subject heading ''Comment on Proposed Regulation.''

FOR FURTHER INFORMATION CONTACT: Nicholas P. Goschy, Assistant General Counsel, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, Tennessee 37902, (865) 632–8960.

SUPPLEMENTARY INFORMATION:

Background

TVA regularly receives subpoenas and other informal requests for documents and requests for TVA employees to provide testimony or evidence in cases in which TVA is not a party. Sometimes these subpoenas or requests are for TVA records that are not available to the public under the Freedom of Information Act. TVA also receives requests for TVA employees to appear as witnesses in litigation and to provide testimony relating to materials contained in TVA's official records or provide testimony or information acquired during the performance of the employees' official duties.

Although many other Federal agencies currently have regulations in place to address these types of requests, and TVA itself has rules implementing the Freedom of Information Act that govern requests for information from the general public, TVA currently has no official regulations governing subpoenas and other information requests for document production and testimony of TVA employees in legal proceedings. Issues about such requests that have arisen in recent years warrant adoption of regulations governing their submission, evaluation, and processing. Responding to these requests is not only burdensome, but may also result in a significant disruption of a TVA employee's work schedule and possibly involve TVA in issues unrelated to its responsibilities. In order to resolve these issues, many agencies have issued regulations, similar to the proposed regulation, governing the circumstances and manner in which an employee may respond to demands for testimony or for the production of documents. Establishing uniform procedures for legal processes will ensure timely notice and promote centralized decision making. The United States Supreme Court upheld this type of regulation in *United States ex rel. Touhy* v. *Ragen*, 340 U.S. 462 (1951).

The proposed rule will formalize those past practices already utilized by TVA in responding to these types of requests when TVA is a not a party to the litigation. Briefly summarized, the proposed rule will prohibit disclosure of official records or testimony by TVA's employees, as defined in § 1301.52, unless there is compliance with the rule. The proposed rule sets out the information that requesters must provide and the factors that TVA will consider in making determinations in response to requests for testimony or the production of documents. The proposed rule sets forth TVA's standard practice of providing employee testimony by affidavit only and clarifies those steps requesters must follow in order to obtain official TVA documents, including how to accomplish service of process on TVA. The rule establishes a new practice that service can now be accomplished by United States mail.

This rule applies to a range of matters in any legal proceeding in which TVA is not a named party. Current and former TVA employees will not provide testimony about specific matters involving information which they acquired during the performance of their official duties unless permitted to testify as provided in the rule. They would not be restricted from providing testimony on their own time about general matters unconnected with the specific TVA matters.

This rule will ensure a more efficient use of TVA's resources, minimize the possibility of involving TVA in issues unrelated to its responsibilities, promote uniformity in responding to such subpoenas and like requests, and maintain the impartiality of TVA in matters that are in dispute between other parties. It will also serve TVA's interest in protecting sensitive, confidential, and privileged information and records that are generated in fulfillment of TVA's statutory responsibilities.

This rule is internal and procedural rather than substantive. It does not create a right to obtain official records or the official testimony of a TVA employee nor does it create any additional right or privilege not already available to TVA to deny any demand or request for testimony or documents. Failure to comply with the procedures set out in these regulations would be a basis for denying a demand or request submitted to TVA.

List of Subjects in 18 CFR Part 1301

Administrative practice and procedure.

For the reasons stated in the preamble, TVA proposes to amend 18 CFR Chapter XIII, to read as follows:

PART 1301—PROCEDURES

1. The authority citation for part 1301 continues to read as follows:

Authority: 16 U.S.C. 831–831ee, 5 U.S.C. 552.

2. Part 1301 is amended by adding subpart D to read as follows:

Subpart D—Testimony by TVA Employees, Production of Official Records, and Disclosure of Official Information in Legal Proceedings

Sec.
1301.51 Purpose and scope.
1301.52 Definitions.
1301.53 General.
1301.54 Requirements for a demand for records or testimony.
1301.55 Responding to demands.
1301.56 Final determination.
1301.57 Waiver.

Subpart D—Testimony by TVA Employees, Production of Official Records, and Disclosure of Official Information in Legal Proceedings

§ 1301.51 Purpose and scope.

(a) *Purpose.* This part sets forth the procedures to be followed when TVA or a TVA employee is served with a demand to provide testimony and/or produce or disclose official information or records in a legal proceeding in which TVA or the United States is not a party, and where such appearance arises out of, or is related to, the individual's employment with TVA.

(b) *Scope.* This part applies when, in a judicial, administrative, legislative, or other legal proceeding, a TVA employee is served with a demand to provide testimony concerning information acquired in the course of performing official duties or because of official status and/or to produce official information and/or records.

§ 1301.52 Definitions.

The following definitions apply to this part:

(a) *Appearance* means testimony or production of documents or other material, including an affidavit, deposition, interrogatory, declaration, or other required written submission.

(b) *Demand* means a subpoena, order, or other demand of a court of competent jurisdiction, or other specific authority (e.g. an administrative or State legislative body), for the production, disclosure, or release of TVA records or information or for the appearance of TVA personnel as witnesses in their official capacities.

(c) *Employee* means any members of the Board of Directors, officials, officers, directors, employees or agents of TVA, except as TVA may otherwise determine in a particular case, and includes former TVA employees to the extent that the information sought was acquired in the performance of official duties for TVA.

(d) *General Counsel* means the General Counsel of TVA or a person to whom the General Counsel has delegated authority under this part.

(e) *Legal proceeding* means any and all pre-trial, trial, and post-trial stages of all judicial or administrative actions, hearings, investigations, or similar proceedings before courts, commissions, boards, or other judicial or quasi-judicial bodies or tribunals, whether criminal, civil, or administrative in nature.

(f) *Records* or *official records and information* means all information in the custody and control of TVA, relating to information in the custody and control of TVA, or acquired by a TVA employee in performance of his or her official duties or because of his or her official status while the individual was employed by TVA.

(g) *Testimony* means any written or oral statements, including depositions, answers to interrogatories, affidavits, declarations, interviews, and statements made by an individual in connection with a legal proceeding.

§ 1301.53 General.

(a) No employee shall appear, in response to a demand for official records or information, in any proceeding to which this part applies to provide testimony and/or produce records or other official information without prior authorization as set forth in this part.

(b) This part is intended only to provide procedures for responding to demands for testimony or production of records or other official information, and is not intended to, does not, and may not be relied upon to, create any right or benefit, substantive or procedural, enforceable by any party against TVA and the United States.

§ 1301.54 Requirements for a demand for records or testimony.

(a) *Service of demands.* Only TVA's General Counsel or his/her designee is authorized to receive and accept demands sought to be served upon TVA or its employees. All such documents should be delivered in person or by United States mail to the Office of the General Counsel, Tennessee Valley Authority, 400 W. Summit Hill Drive, Knoxville, Tennessee 37902.

(b) *Time limit for serving demands.* The demand must be served at least 30 days prior to the scheduled date of testimony or disclosure of records, in order to ensure that the General Counsel has adequate time to consider the demand and prepare a response, except in cases of routine requests for personnel and payroll records located on-site in Knoxville, where service 15 days prior will normally be considered sufficient. The General Counsel may, upon request and for good cause shown, waive the requirement of this paragraph.

(c) *Form of Demand.* A demand for testimony or production of records or other official information must comply with the following requirements:

(1) The demand must be in writing and submitted to the General Counsel.

(2) The demand must include the following information:

(i) The caption of the legal proceeding, docket number, and name and address of the court or other authority involved.

(ii) If production or records or other official information is sought, a list of categories of records sought, a detailed description of how the information sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the records sought.

(iii) If testimony is sought, a description of the intended use of the testimony, a detailed description of how the testimony sought is relevant to the issues in the legal proceeding, and a specific description of the substance of the testimony sought.

(iv) A statement as to how the need for the information outweighs any need to maintain the confidentiality of the information and outweighs the burden on TVA to produce the documents or testimony.

(v) A statement indicating that the information sought is not available from another source, from other persons or entities, or from the testimony of someone other than a TVA employee, such as a retained expert.

(vi) The name, address, and telephone number of counsel to each party in the case.

(d) TVA reserves the right to require additional information to complete the request where appropriate or to waive any of the requirements of this section at its sole discretion.

§ 1301.55 Responding to demands.

Generally, authorization to provide the requested material or testimony shall not be withheld unless their disclosure is prohibited by law or for

other compelling reasons, provided the request is reasonable and in compliance with the requirements of this part, and subject to the following conditions:

(a) *Demands for testimony.* TVA's practice is to provide requested testimony of TVA employees by affidavit only. TVA will provide affidavit testimony in response to demands for such testimony, provided all requirements of this part are met and there is no compelling factor under paragraph (c) of this section that requires the testimony to be withheld. The General Counsel may waive this restriction when necessary.

(b) *Demands for production of records or official information.* TVA's practice is to provide requested records or official information, provided all requirements of this part are met and there is no compelling factor under paragraph (c) of this section that requires the records or official information to be withheld.

(c) *Factors to be considered in determining whether requested testimony or records or official information must be withheld.* The General Counsel shall consider the following factors, among others, in deciding whether requested testimony or materials must be withheld:

(1) Whether production is appropriate in light of any relevant privilege;

(2) Whether production is appropriate under the applicable rules of discovery or the procedures governing the case or matter in which the demand arose;

(3) Whether the material requested is relevant to the matter at issue;

(4) Whether allowing such testimony or production of records would be necessary to prevent a miscarriage of justice;

(5) Whether disclosure would violate a statute, Executive Order, or regulation, including, but not limited to, the Privacy Act of 1974, as amended, 5 U.S.C. 552a;

(6) Whether disclosure would impede or interfere with an ongoing law enforcement investigation or proceeding, or compromise constitutional rights or national security interests;

(7) Whether disclosure would improperly reveal trade secrets or proprietary confidential information without the owner's consent;

(8) Whether disclosure would unduly interfere with the orderly conduct of TVA's functions;

(9) Whether the records or testimony can be obtained from other sources;

(10) Whether disclosure would result in TVA appearing to favor one litigant over another;

(11) Whether the demand or request is within the authority of the party making it; and

(12) Whether a substantial Government interest is implicated.

(d) *Restrictions on testimony or production of records or official information.* When necessary or appropriate, the General Counsel may impose restrictions or conditions on the production of testimony or records or official information. These restrictions may include, but are not limited to:

(1) Limiting the area of testimony;

(2) Requiring that the requester and other parties to the legal proceeding agree to keep the testimony under seal;

(3) Requiring that the testimony be used or made available only in the legal proceeding for which it was requested;

(4) Requiring that the parties to the legal proceeding obtain a protective order or execute a confidentiality agreement to limit access and any further disclosure of produced records or official information.

(e) *Fees for Production.* Fees will be charged for production of TVA records and information. The fees will be the same as those charged by TVA pursuant to its Freedom of Information Act regulations, 16 CFR. 1301.10.

§ 1301.56 Final determination.

The General Counsel makes the final determination whether a demand for testimony or production of records or official testimony in a legal proceeding in which TVA is not a party shall be granted. All final determinations are within the sole discretion of the General Counsel. The General Counsel will notify the requesting party and, when necessary, the court or other authority of the final determination, the reasons for the grant or denial of the request, and any conditions that the General Counsel may impose on the production of testimony or records or official information.

§ 1301.57 Waiver.

The General Counsel may grant a waiver of any procedure described by this part where a waiver is considered necessary to promote a significant interest of TVA or the United States, or for other good cause.

Maureen H. Dunn,

General Counsel.

[FR Doc. E7–17722 Filed 9–7–07; 8:45 am]

BILLING CODE 8120–08–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R01–OAR–2007–0497; A–1–FRL–8463–5]

Approval and Promulgation of Air Quality Implementation Plans; New Hampshire; Revised Carbon Monoxide Maintenance Plan for Nashua

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the State of New Hampshire. This SIP submittal contains revisions to the carbon monoxide (CO) maintenance plan for Nashua, New Hampshire. Specifically, New Hampshire has revised the contingency plan portion of the original maintenance plan. The intended effect of this action is to propose approval of this revision to the Nashua CO maintenance plan. This action is being taken in accordance with the Clean Air Act.

DATES: Written comments must be received on or before October 10, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R01–OAR–2007–0497 by one of the following methods:

1. *http://www.regulations.gov:* Follow the on-line instructions for submitting comments.

2. *E-mail: arnold.anne@epa.gov,* Fax: (617) 918–0047.

3. *Mail:* ''EPA–R01–OAR–2007–0497,'' Anne Arnold, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (mail code CAQ), Boston, MA 02114–2023.

4. *Hand Delivery or Courier.* Deliver your comments to: Anne Arnold, Manager, Air Quality Planning Unit, Office of Ecosystem Protection, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, 11th floor, (CAQ), Boston, MA 02114–2023. 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 legal holidays.

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

FOR FURTHER INFORMATION CONTACT: Robert C. Judge, Air Quality Planning

Unit, U.S. Environmental Protection Agency, EPA New England Regional Office, One Congress Street, Suite 1100 (CAQ), Boston, MA 02114–2023, telephone number (617) 918–1045, fax number (617) 918–0045, e-mail *judge.robert@epa.gov.*

SUPPLEMENTARY INFORMATION: In the Final Rules Section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action rule, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

For additional information, see the direct final rule which is located in the Rules Section of this **Federal Register**.

Dated: August 22, 2007.

Ira Leighton,

Acting Regional Administrator, EPA New England.

[FR Doc. E7–17635 Filed 9–7–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 87–268; FCC 07–138]

Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission adopts an *Eighth Further Notice of Proposed Rule Making* (Eighth Further NPRM), to announce tentative channel designations (TCDs) for three new permittees that have recently attained permittee status. The Eighth Further NPRM identifies these permittees together with the channel we propose to assign the permittee and the specific technical facilities at which we propose to allow these stations to operate after the DTV transition. In addition, the *Eighth Further NPRM* identifies a number of proposals for revisions to the proposed DTV Table of Allotments and/or Appendix B reflected in the Seventh Report and Order that was adopted simultaneously with this *Eighth Further NPRM*. These proposed revisions were advanced by commenters in either reply comments or late-filed comments in response to the *Seventh Further NPRM*. As these comments propose changes to the DTV Table of Allotments and/or Appendix B as in the Seventh Report and Order that could affect other stations that may not have had adequate notice of these proposals, we identify these proposals to give affected stations an opportunity to comment.

DATES: Comments for this proceeding are due on or before October 10, 2007; reply comments are due on or before October 25, 2007.

ADDRESSES: You may submit comments, identified by MB Docket No. 87–268, 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 Kim Matthews, of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Federal Communications Commission's Eighth Further Notice of Purpose Rulemaking in MB Docket No. 87–268, FCC 07–138, adopted August 1, 2007, and released August 6, 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).

Summary of the Eighth Further Notice of Proposed Rulemaking

1. The *Seventh Further Notice of Proposed Rulemaking* in this proceeding, 71 FR 66592, November 15, 2006 (Seventh Further NPRM) finalized the DTV channel election process and began the final stage of the transition of the nation's broadcast television system from analog to digital technology. Although virtually all potentially eligible stations were assigned TCDs at that time, the *Seventh Further NPRM* noted that some applications for station licenses remained pending, and might be granted before the adoption of the Order in this proceeding. Some of these new permittee TCDs were granted too late to allow sufficient opportunity for public comment in the *Seventh Further NPRM* rulemaking. In addition, several commenters submitted requests for substantive modifications to the DTV Table of Allotments or Appendix B as in the Seventh Report and Order after the close of the comment period. The Commission therefore issues this *Eighth Further Notice of Proposed Rulemaking*, and solicits comment on the TCDs and modification requests discussed below. We emphasize that in this Eighth Further NPRM deals exclusively with the stations described below. All comments and reply comments should relate solely to the specific situations and issues raised herein. No further proposals for modification of the DTV Table of Allotments or Appendix B as in the Seventh Report and Order will be entertained during this pleading cycle, and no such proposals should be raised during the comment or reply period.

New Permittees

2. As described in the *Seventh Further NPRM*, we are establishing a separate pleading cycle to give interested parties an opportunity for comment on new permittees that have attained permittee status too late to be considered in the *Seventh Report and Order* (published elsewhere in this issue). Three new

permittees have attained this status since we issued the New Permittees PN: Entravision Holdings, LLC, in Pueblo, Colorado (Analog channel 48), Richland Reserve, LLC in Greeley, Colorado (Digital channel 45), and Northwest Television, Inc. (Northwest Television) in Galesburg, Illinois (Digital channel 53). Post-transition, channel 48 in Pueblo would create no additional interference, and we therefore propose channel 48 as this station's TCD. Interference analysis indicates, however, that post-transition, channel 45 in Greeley would cause 0.3 percent new interference. Therefore, we propose channel 49 as the TCD Richland Reserve, LLC. With respect to the new permittee in Galesburg, IL, because channel 53 is an out-of-core channel, an engineering analysis was conducted and it was determined that channel 8 is the best available post-transition channel in Galesburg. Channel 8 creates no new interference to the TCD of another full-power station but would interfere with licensed Class A Station WQFL–CA, Rockford, IL. However, WQFL has an application for a minor modification of license pending, which would require a waiver of the filing freeze but which, if granted, would eliminate the interference from channel 8. In order to locate an interference-free post-transition channel for Galesburg, we propose to grant WQFL–CA a waiver of the filing freeze and grant the WQFL–CA modification application, thereby resolving any potential interference, and propose channel 8 as the TCD for Northwest Television. These proposals will further amend the new DTV Table of Allotments. In addition, we propose the specific technical facilities—effective radiated power (ERP), antenna height above average terrain (HAAT), antenna radiation pattern, and geographic coordinates—at which these stations would operate after the DTV transition. The attachment also includes information on predicted service area and population coverage. Consistent with the *Seventh Further NPRM*, the Commission hereby invites public comment on these proposed changes to the new DTV Table of Allotments.

Late-Filed Requests for Changes to the Table of Allotments and Appendix B

3. As noted above, several stations filed requests for revisions to the proposed DTV Table of Allotments and/or Appendix B as in the Seventh Report and Order either during the reply comment period or after the close of the filing period. In order to facilitate a rapid transition, late-filed requests for minor adjustments or changes necessary for the station to replicate have been granted where they were unopposed and cause no impermissible interference to any other station. In some cases, although the Commission would have looked favorably on the proposal had it been timely filed, we find it necessary to provide a full opportunity to comment. This is particularly the case where the proposed changes to the DTV Table of Allotments and/or Appendix B as in the Seventh Report and Order could affect other stations. This *Eighth Further NPRM* identifies these late-filed requested changes, and seeks comment.

1. Request To Make Changes That Meet the Interference Criteria

4. *WTXF, Philadelphia, PA*. Fox Television Stations of Philadelphia, Inc. (Fox Philadelphia), licensee of station WTXF–TV, channel 29, and WTXF–DT, channel 42, Philadelphia, PA, received channel 42 for its TCD in the proposed DTV Table of Allotments. In late-filed comments, Fox Philadelphia asserts that the parameters described in Appendix B as in the Seventh Report and Order reflect out-of-date information, and requests that they be revised to match its CP for its authorized facility, which will replicate its analog facilities. Fox Philadelphia states that it is completing construction and expects to apply for the license to cover later this summer. We find analyzed the requested facilities for post-transition operation, and we find that WTXF would cause 1.31 percent interference to WMPT, Annapolis, MD (analog channel 22, post-transition digital channel 42), 0.58 percent interference to WSAH, Bridgeport, CT (analog channel 43, post-transition digital channel 42), and 0.86 percent interference to WNJT, Trenton, NJ (analog channel 52, post-transition digital channel 43). Because this request was filed too late to ensure a full opportunity for comment, and particularly in light of the predicted interference, we invite comment on this request in this *Eighth Further NPRM*.

5. *WDCA, Washington, DC*. Fox Television Stations, Inc., (Fox), licensee of station WDCA–TV, channel 20, and WDCA–DT, channel 35, Washington DC, received channel 35 for its TCD in the proposed DTV Table of Allotments. Fox filed late comments requesting that the Commission modify Appendix B as in the Seventh Report and Order to reflect WDCA's actual, authorized facilities. WDCA–DT has a construction permit, FCC File No. BMPCDT–20060519ACK, that specifies facilities at its main studio where WDCA–DT is currently ''located, authorized and operating,'' and WDCA–DT has applied for a license to cover that Construction Permit, FCC File No. BLCDT–20070411AAH. As noted by Fox, previous engineering analysis had indicated that this location and these parameters cause no impermissible interference. The Commission proposes to grant this request and adjust the DTV Table of Allotments and Appendix B as in the Seventh Report and Order accordingly. Therefore, we solicit comments on this proposal.

2. Request for Modified Coverage Area

6. *KOAM, Pittsburg, KS*. Saga Quad States Communications (Saga), licensee of station KOAM–TV, channel 7, and KOAM–DT, channel 13, Pittsburg, KS, received channel 7 for its TCD in the proposed DTV Table of Allotments. Saga states that its current Appendix B as in the Seventh Report and Order parameters would allow it to reach only 83 percent of the audience it currently serves with its analog signal. Saga requests a revision to specify directional facilities for KOAM at an ERP of 15.33 kW, in order to more closely replicate its analog Grade B contour. Saga's internal engineering study indicates that use of a directional antenna would prevent any station from receiving impermissible interference, while still allowing KOAM to reach 94.4 percent of people reached by its analog transmitter, an outcome it argues is in the public interest. We have analyzed KOAM's request and recalculated their Appendix B as in the Seventh Report and Order facilities based on replicating the analog coverage that was used to determine their initial DTV Table of Allotments facilities. We propose to adjust the DTV Table of Allotments and Appendix B as in the Seventh Report and Order accordingly and solicit comments on this proposal.

3. Requests for Alternative Channel Assignments

7. *KOLO, Reno, NV*. Gray Television Licensee, Inc. (Gray), licensee of station KOLO–TV, channel 8, and KOLO–DT, channel 9, Reno, NV, received channel 9 for its TCD in the proposed DTV Table of Allotments. Gray currently broadcasts from the same antenna on its NTSC channel 8 and DTV channel 9. Gray states that its antenna has been optimized for channel 8 for over 45 years, and Gray expresses concern that attempting to retune the antenna for use on its TCD channel 9 could lead to serious engineering difficulties. Gray therefore requests that KOLO's TCD be changed to permit it to return to its NTSC channel 8 post-transition. Engineering analysis indicates that this proposal by Gray would cause no additional interference. The Commission proposes to grant this

request and adjust the DTV Table of Allotments and Appendix B as in the Seventh Report and Order accordingly. Therefore, we solicit comments on this proposal.

8. *WEHT, Evansville, IN.* Gilmore Broadcasting Corporation (Gilmore), licensee of station WEHT, channel 25, and WEHT–DT, channel 59, Evansville, IN, received channel 25 for its TCD in the proposed DTV Table of Allotments. Gilmore filed reply comments stating that WEHT could not serve its entire analog area using the TCD and parameters in the DTV Table of Allotments and Appendix B as in the Seventh Report and Order. It proposes to change its TCD to channel 7 and adjust its parameters. Gilmore states that these proposed changes will increase its service area and eliminate the interference with WRTV–DT Indianapolis, IN (analog channel 6, post-transition digital channel 25) that would be caused by operating on channel 25. Engineering analysis shows that Gilmore's proposed alternative channel would cause no additional interference. The Commission proposes to grant this request and adjust the DTV Table of Allotments and Appendix B as in the Seventh Report and Order accordingly. Therefore, we solicit comments on this proposal.

9. *KTRV, Nampa, ID.* Idaho Independent Television, Inc. (IIT), licensee of KTRV, channel 12, and KTRV–DT, Nampa, Idaho, received channel 12 for its TCD in the proposed DTV Table of Allotments. IIT filed late comments stating that it wishes to retain its existing DTV facilities for post-transition operation, and requests that Appendix B as in the Seventh Report and Order be revised to reflect those facilities. IIT requests its TCD be changed to channel 13 and its antenna ID to 28309. IIT states ''[t]hese licensed facilities already have passed Canadian review once before, so further international coordination should be minimal.'' IIT makes no representation, however, about post-transition interference. In response to IIT's request, we studied KTRV's post-transition operation on channel 13 and propose to grant their requested channel change. We seek comment on this proposal.

10. *WUOA, Tuscaloosa, AL.* The University of Alabama, singleton licensee of analog station WUOA, channel 23, Tuscaloosa, AL, received channel 23 for its TCD in the proposed DTV Table of Allotments. The University of Alabama filed an *ex parte* in June 2007 seeking a channel change to a low VHF channel. The comment explained that the limited resources of the public university would be most efficiently used by broadcasting on a VHF channel, because of the lower cost of construction and operation of a VHF station as compared to a UHF station. We have considered and studied the University of Alabama's request, and propose replication facilities for WUOA on channel 6. Engineering analysis shows that this alternative channel will cause no additional interference. The Commission seeks comment on this proposal.

4. Other Requests

11. *WPCW, Jeannette, PA.* CBS Corporation (CBS), parent company of the licensee of Station WPCW, channel 19, and applicant for construction permit for a DTV station on channel 49, Jeannette, PA, received channel 49 for its TCD in the proposed DTV Table of Allotments. CBS requests a change in the parameters in the proposed Appendix B as in the Seventh Report and Order for WPCW to reflect those approved by the Commission in its 2006 decision amending the pre-transition DTV Table of Allotments to substitute channel 49 for channel 30 as the digital frequency for WPCW and reallotting DTV channel 49 from Johnstown, Pennsylvania to Jeannette. Larry L. Schrecongost (Schrecongost), licensee of Class A television Station WLLS, channel 49, Indiana, Pennsylvania, opposes the CBS request and argues that the proposed DTV Table of Allotments should specify channel 30 rather than channel 49 for WPCW. Schrecongost has also filed a petition for reconsideration of the *2006 Report and Order,* 71 FR 8986, February 22, 2006, which is currently pending.

12. In 1999, the former licensee of WPCW filed a petition for rule making seeking to modify the station's DTV allotment from channel 30 to channel 49 and to change the station's digital community of license from Johnstown to Jeannette. That petition was subsequently amended to specify a new reference site. The petition for rule making was pending at the time the former licensee of WPCW certified to replication on FCC Form 381. Based on the pending rule making, WPCW elected channel 49 in the first round of the channel election process. The *Seventh Further NPRM* specifies channel 49 for WPCW but lists technical parameters consistent with replication on channel 49 of the WPCW initial DTV allotment which was based on its analog facility. In the *2006 Report and Order,* the Commission granted the WPCW rule making petition and, in addition to the channel change from 30 to 49, the Commission approved the requested site change for WPCW as well as an increase in ERP and other technical changes.

13. CBS argues in its comments that the DTV Table of Allotments should reflect the revised parameters approved for WPCW in the *2006 Report and Order.* Schrecongost argues that the Commission erred in granting the channel change and site change for WPCW as operation of that station on channel 49 in Jeannette would cause interference to WLLS in violation of the Community Broadcasters Protection Act of 1999 (CBPA). The CBPA gave certain low power television (LPTV) stations, known as Class A stations, some limited protection from interference by full-service stations.

14. We have determined that operation of WPCW on channel 49 at the site and parameters approved in the *2006 Report and Order* would cause interference to the TCDs of two full-power stations in excess of the 0.1 percent standard for new interference that applies during the channel election process. Specifically, operation of WPCW on channel 49 would cause 1.61 percent new interference to WTAP, Parkersburg, WV (analog channel 15, post-transition digital channel 49), and 0.7 percent new interference to WPXI, Pittsburgh, PA (analog channel 11, post-transition digital channel 48).

15. In light of the interference caused by WPCW on channel 49, we propose to provide WPCW with an alternative channel that would resolve this interference. Specifically, we propose to allot channel 11 to WPCW with the site location specified in the *2006 Report and Order.* The specific technical facilities we propose for WPCW on channel 11 at this location are reflected in Appendix G, *infra.* Our analysis shows that operation of WPCW on channel 11 will not cause interference to the post-transition facilities of full power stations, nor to WLLS, the Class A station.

16. We believe that this proposal is consistent with our objectives in this proceeding. Operation of WPCW on channel 11 instead of channel 49 would reduce the interference caused to other facilities, consistent with our goal of efficient spectrum use. In addition, changing the WPCW allotment from channel 49 to channel 11 would resolve the challenge by Class A station WLLS to the decision reached in the *2006 Report and Order.* Resolving this challenge avoids a potentially protracted appeal of the *2006 Report and Order* and furthers our goal of finalizing DTV channels and facilities to permit stations to construct their post-transition facilities by the rapidly approaching transition deadline.

17. *WGNO and WNOL, New Orleans, LA.* Tribune (licensee of station WGNO, channel 26, permittee of WGNO–DT, channel 15, with TCD on channel 26, New Orleans, LA, and station WNOL, channel 38, and permittee of WNOL–DT, channel 40, New Orleans, LA, with TCD on channel 15) filed late comments requesting a change in technical parameters for both stations. Tribune proposes to operate both WGNO and WNOL from the WDSU transmitter site and tower, 3.7 km from the WGNO/WNOL transmission site destroyed by Hurricane Katrina. Tribune proposes that WGNO and WNOL will share the antenna with WDSU (analog channel 6, pre- and post-transition digital channel 43). Tribune contends that operating their stations from this site will streamline their application process and allow Tribune to restore digital service to the New Orleans market more quickly.

18. We have considered and studied Tribune's request, and we find that the proposed parameters do not cause impermissible interference to any station. However, we find that the proposed parameters for both stations would exceed their authorized contours, in violation of the freeze. In light of the unusual circumstances that affect these stations due to the destruction of both stations' analog and digital facilities, and the licensee's desire to relocate the transmitter to reduce the risk of damage from future hurricanes, we propose to waive the freeze and substitute the technical parameters requested in the late-filed comments. We seek comment on this proposal.

Eighth Further Notice of Proposed Rulemaking

Initial Regulatory Flexibility Analysis

19. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared an Initial Regulatory Flexibility Analysis (FRFA) relating to this *Eighth Further Notice of Proposed Rulemaking.*

Initial Paperwork Reduction Act Analysis

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

Ex Parte Rules

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

Filing Requirements

22. *Comments and Replies.* Pursuant to §§ 1.415 and 1.419 of the Commission's rules, interested parties may file comments on or before October 10, 2007; reply comments are due on or before October 25, 2007 using: (1) The Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies.

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

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

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW., Washington, DC 20554.

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

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

Additional Information

25. For more information on this *Seventh Report and Order and Eighth Further Notice of Proposed Rulemaking,* please contact Kim Matthews, Policy Division, Media Bureau at (202) 418–2154, Gordon Godfrey, Engineering Division, Media Bureau at (202) 418–2193, or Nazifa Sawez, Engineering Division, Media Bureau at (202) 418–7059.

Initial Regulatory Flexibility Act Analysis

26. As required by the Regulatory Flexibility Act of 1980, as amended (RFA) the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in this *Eighth Further Notice of Proposed Rulemaking.* 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 *Eighth Further NPRM* provided in paragraph 163 of the item. The Commission will send a copy of the *Eighth Further NPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the *Eighth Further NPRM* and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for and Objectives of the Proposed Rules

27. The *Eighth Further NPRM* proposes modifications to the new Post-Transition Table of DTV Allotments and Appendix B as in the Seventh Report and Order (DTV Table of Allotments). Three new full power permittees and six existing full power licensees and permittees are provided with channels and parameters for digital broadcast operations after the DTV transition. Changes to the new post-transition DTV Table of Allotments affects full power commercial and noncommercial broadcast television stations as the new DTV Table of Allotments provides post-transition channels for all eligible full power stations and changes to the DTV Table of Allotments may have interference or other implications for other broadcasters in the DTV Table of Allotments.

28. The Commission announced in the *Seventh Further NPRM* that, to the extent possible, it would accommodate future new permittees in the new Post-Transition Table of DTV Allotments, but that it would provide an opportunity for public comment before doing so. Three new construction permits were issued to permittees too late to be offered for comment in an earlier Public Notice, but can be accommodated in the new DTV Table of Allotments without causing impermissible interference. Six existing licensees and permittees made late-filed requests for modifications to the new DTV Table of Allotments. Although these requested changes are unopposed, appear non-controversial, and would have been looked upon favorably had they been timely-filed, we find it appropriate to provide a full opportunity for comment.

29. We believe these proposed modifications to the new Post-Transition Table of DTV Allotments support the goals set forth for the channel election process. By these proposed modifications, the new permittees are provided with channels for DTV operations after the transition. Where adjustments bring the DTV Table of Allotments into line with the facilities or service areas of existing licensees or permittees, they recognize industry expectations and respect investments already made. These proposals also move the overall Post-Transition Table of DTV Allotments more quickly towards finality without sacrificing clarity or transparency. Finally, we believe the proposed changes reflects our efforts to promote overall spectrum efficiency and, in particular, to ensure the best possible DTV service to the public.

B. Legal Basis

30. The authority for the action proposed in this rulemaking is contained in sections 1, 4(i) and (j), 5(c)(1), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C. 151, 154(i) and (j), 155(c)(1), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

31. 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, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small government 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 SBA. The proposed rules in this *Eighth Further NPRM*, if adopted, will primarily affect television stations. A description of such small entities, as well as an estimate of the number of such small entities, is provided below.

32. *Television Broadcasting.* The proposed rules and policies in this *Eighth Further NPRM* apply to television broadcast licensees and potential licensees of television service. The SBA defines a television broadcast station as a small business if such station has no more than $13.5 million in annual receipts. Business concerns included in this industry are those ''primarily engaged in broadcasting images together with sound.'' The Commission has estimated the number of licensed commercial television stations to be 1,376. According to Commission staff review of the BIA Financial Network, MAPro Television Database (BIA) on March 30, 2007, about 986 of an estimated 1,374 commercial television stations (or about 72 percent) have revenues of $13.5 million or less and thus qualify as small entities under the SBA definition. The Commission has estimated the number of licensed NCE television stations to be 380. We note, however, that, in assessing whether a business concern qualifies as small under the above definition, business (control) affiliations must be included. Our estimate, therefore, likely overstates the number of small entities that might be affected by our action, because the revenue figure on which it is based does not include or aggregate revenues from affiliated companies. The Commission does not compile and otherwise does not have access to information on the revenue of NCE stations that would permit it to determine how many such stations would qualify as small entities.

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

34. *Class A TV, LPTV, and TV translator stations.* The rules and policies proposed in this *Eighth Further NPRM* do not directly affect low power television stations, as the DTV Table of Allotments to which changes are being proposed will finalize post-transition digital channels only for full power television stations. Nonetheless, as discussed in section E, *infra*, low power

television stations will also eventually transition from analog to digital technology and may be indirectly affected by the channel allotment decisions herein. The broadcast stations indirectly affected include licensees of Class A TV stations, low power television (LPTV) stations, and TV translator stations, as well as to potential licensees in these television services. The same SBA definition that applies to television broadcast licensees would apply to these stations. The SBA defines a television broadcast station as a small business if such station has no more than $13.5 million in annual receipts. Currently, there are approximately 567 licensed Class A stations, 2,227 licensed LPTV stations, and 4,518 licensed TV translators. Given the nature of these services, we will presume that all of these licensees qualify as small entities under the SBA definition. We note, however, that under the SBA's definition, revenue of affiliates that are not LPTV stations should be aggregated with the LPTV station revenues in determining whether a concern is small. Our estimate may thus overstate the number of small entities since the revenue figure on which it is based does not include or aggregate revenues from non-LPTV affiliated companies. We do not have data on revenues of TV translator or TV booster stations, but virtually all of these entities are also likely to have revenues of less than $13.5 million and thus may be categorized as small, except to the extent that revenues of affiliated non-translator or booster entities should be considered.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

35. The proposals set forth in this *Eighth Further NPRM* would involve no changes to reporting, recordkeeping, or other compliance requirements beyond what is already required under the current regulations.

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

36. 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.

37. The proposed changes will allow the new Post-Transition Table of DTV Allotments to provide all eligible broadcast television stations—large and small alike—with channels for post-transition DTV operations. No distinction was made between large and small licensees and permittees when determining which proposals to include in the *Eighth Further NPRM*. Small broadcasters, just like large ones, benefited from participating in the channel election process, and had an equal opportunity to review the proposed DTV Table of Allotments and request modifications. The TCDs and parameters proposed are based almost entirely on elections by licensees. All stations affected by the proposals in the *Eighth Further NPRM* will have the opportunity to comment, and the Commission will consider all comments, including those proposing alternative allotments for specific stations. No alternative to existing proposals for specific modifications to the DTV Table of Allotments for purposes of DTV allotments are proposed herein. In general, the transition procedures utilized in selecting final DTV allotments have been sufficiently transparent and flexible and eligible applicants for post-transition DTV allotments have been provided with the opportunity to make elections and to suggest alternative allotments.

38. The *Eighth Further NPRM* invites comment from broadcasters, including small broadcasters, on the proposed modifications to the new Post-Transition Table of DTV Allotments. In addition, we invite comment on other ways in which we could consider the particular needs and interests of small businesses in finalizing the Post-Transition Table of DTV Allotments.

39. The new DTV Table of Allotments for which the *Eighth Further NPRM* proposes modifications does not provide for channels for low power television stations. The Commission will address the digital transition for low power television (LPTV) stations in a separate proceeding. The statutory transition deadline established by Congress in 2006—February 17, 2009—applies only to full-power stations. One of the Commission's goals in this proceeding is to permit full power stations to finalize their post-transition facilities by this rapidly approaching deadline. The Commission previously determined that it has discretion under 47 U.S.C. 336(f)(4) to set the date by which analog operations of stations in the low power and translator service must cease. The Commission has stated that the intent is to ensure that low power and translator stations not be required to prematurely convert to digital operation in a manner that could disrupt their analog service or, more importantly, that might cause them to cease operation. The Commission decided not to establish a fixed termination date for the low power digital television transition until it resolved the issues concerning the transition of full-power television stations. The Commission has recognized that low power television stations are a valuable component of the nation's television system and has stated its intention to facilitate, wherever possible, the digital transition of these stations.

F. Federal Rules Which Duplicate, Overlap, or Conflict With the Commission's Proposals

None.

Ordering Clauses

40. *It is ordered* that, pursuant to the authority contained in sections 1, 4(i) and (j), 7, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337 of the Communications Act of 1934, 47 U.S.C 151, 154(i) and (j), 157, 301, 302, 303, 307, 308, 309, 316, 319, 324, 336, and 337, this *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making is adopted*.

41. *It is further ordered* that pursuant to the authority contained in sections 1, 2, 4(i), 303, 303a, 303b, and 307 of the Communications Act of 1934, 47 U.S.C 151, 152, 154(i), 303, 303a, 303b, and 307, the Commission's rules *are hereby amended* as set forth in Appendix A.

42. *It is further ordered* that the rules as revised in Appendix A of the *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making shall be effective* October 10, 2007.

43. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Seventh Report and Order and Eighth Further Notice of Proposed Rule Making*, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

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

List of Subjects in 47 CFR Part 73

Television.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Proposed Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 to read as follows:

PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

2. Section 73.622 is amended by adding paragraph (i) to read as follows:

§ 73.622 Digital television table of allotments.

* * * * *

(i) Post-Transition Table of DTV Allotments.

Community	Channel No.
ALABAMA	
Tuscaloosa	6
COLORADO	
Greeley	49
Pueblo	48
IDAHO	
Nampa	13
ILLINOIS	
Galesburg	8
INDIANA	
Evansville	7
NEVADA	
Reno	8
PENNSYLVANIA	
Jeannette	11

Note: The following Appendix will not appear in the Code of Federal Regulations.

Appendix G—Proposed DTV Table of Allotments Information

Facility ID	State	City	NTSC	DTV								
			Chan	Chan	ERP (kW)	HAAT (m)	Antenna ID	Latitude (DDMMSS)	Longitude (DDDMMSS)	Area (sq km)	Population (thousand)	Percent interference received
77496	AL	Tuscaloosa	23	6	1	266	80096	330315	873257	18093	595	0
166510	CO	Greeley	.....	49	1000	382	.....	402448	1041940	32251	2400	0
166331	CO	Pueblo	48	48	50	695	80244	384442	1045137	20898	906	0.8
51567	DC	Washington	20	35	500	227	.....	385722	770459	20241	6949	0.2
28230	ID	Nampa	12	13	17	829	.....	434518	1160552	41141	555	0
81946	IL	Galesburg	.....	8	15	333	80193	411844	902245	24719	795	0.7
24215	IN	Evansville	25	7	3.2	301	80191	375157	873404	21506	699	0.1
58552	KS	Pittsburg	7	7	15.5	332	80204	371315	944225	29053	543	0.7
54280	LA	New Orleans	38	15	775	286	80216	295659	895728	24543	1724	0
72119	LA	New Orleans	26	26	1000	286	80217	295659	895728	24703	1734	0
63331	NV	Reno	8	8	15.6	893	80185	391849	1195300	39660	667	2.6
69880	PA	Jeannette	19	11	6.5	303	80099	402334	794654	21639	2960	0.1
51568	PA	Philadelphia	29	42	1000	281	43286	400226	751419	20599	7425	6.9

[FR Doc. E7–17643 Filed 9–7–07; 8:45 am]

BILLING CODE 6712–01–P

Notices

Federal Register

Vol. 72, No. 174

Monday, September 10, 2007

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

Food Safety and Inspection Service

[Docket No. FSIS–2007–0029]

Notice of Request for a Revision of a Currently Approved Information Collection (Marking, Labeling, and Packaging)

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (OMB) regulations, the Food Safety and Inspection Service (FSIS) is announcing its intention to request a revision of an approved information collection concerning the regulatory requirements for marking, labeling, and packaging of meat, poultry, and egg products because of revised estimates, which support a finding of more total burden hours.

DATES: Comments on this notice must be received on or before November 9, 2007.

ADDRESSES: FSIS invites interested persons to submit comments on this notice. Comments may be submitted by any of the following methods:

- *Mail, including floppy disks or CD–ROMs, and hand- or courier-delivered items:* Send to Docket Clerk, U.S. Department of Agriculture, Food Safety and Inspection Service, 1400 Independence Avenue, SW., Room 2534 South Building, Washington, DC 20250.
- *Electronic mail:* *fsis.regulationscomments@fsis.usda.gov.*
- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulation.gov* and in the ''Search for Open Regulations'' box, select ''Food Safety and Inspection Service'' from the agency drop-down menu, then click on ''Submit.'' In the Docket ID column, select FDMS Docket Number FSIS–2007–0029 to submit or view public comments and to view supporting and related materials available electronically.

All submissions received by mail or electronic mail must include the Agency name and docket number. All comments submitted in response to this document, as well as research and background information used by FSIS in developing this document, will be available for public inspection in the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Comments will also be posted on the Agency's Web site at *http://www.fsis.usda.gov/regulations_&_policies/regulations_directives_&_notices/index.asp.* Individuals who do not wish FSIS to post their personal contact information—mailing address, e-mail address, and telephone number—on the Internet may leave the information off their comments.

FOR ADDITIONAL INFORMATION: Contact John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue, SW., Room 3532 South Building, Washington, DC 20250, (202) 720–0345.

SUPPLEMENTARY INFORMATION:

Title: Marking, Labeling, and Packaging.

OMB Number: 0583–0092.

Expiration Date of Approval: 12/31/2007.

Type of Request: Revision of an approved information collection.

Abstract: FSIS has been delegated the authority to exercise the functions of the Secretary as specified in the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601, *et seq.*), the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451, *et seq.*), and the Egg Products Inspection Act (EPIA) (21 U.S.C. 1031, *et seq.*). FSIS protects the public by verifying that meat, poultry, and egg products are safe, wholesome, unadulterated, and properly labeled and packaged.

FSIS is requesting revision of an approved information collection addressing paperwork requirements specified in the regulations relating to marking, labeling, and packaging of meat, poultry, and egg products.

To control the manufacture of marking devices bearing official marks, FSIS requires official meat and poultry establishments and the manufacturers of such devices to submit an Authorization Certificate to the Agency. Such certification is necessary to help prevent the manufacture and use of counterfeit marks of inspection (9 CFR 312.1 & 381.96).

Meat and poultry establishments and egg products plants must develop labels (9 CFR 317.4, 381.115, & 590.410) in accordance with FSIS regulations. To receive approval for such labels, establishments must complete a form. Respondents also submit, in addition to the form, duplicate sketch copies of the labels. The establishment must maintain a copy of all the labeling used, along with product formulation and processing procedures.

Previously approved labeling that contains changes such as holiday season designs, addition or deletion of coupons, UPC production codes, or recipe suggestions; newly assigned or revised establishment numbers; changes in the arrangement or language of directions for opening containers or serving the product; or the substitution of abbreviations for words or vice versa, do not need additional FSIS approval (9 CFR 317.5). Establishments must keep a copy of the labeling used, along with the product formulation and processing procedures on file.

FSIS requires establishments to keep a written guaranty on file to demonstrate that the packaging material they use to package product is safe and will not adulterate product (9 CFR 312.1 and 381.96).

Poultry establishments producing Mechanically Separated (Kind of Poultry) must have adequate controls in place, including recordkeeping, to ensure that such product complies with the Agency's requirements (9 CFR 381.173).

The Agency is revising the information collection based on revised estimates of the number of establishments and the time necessary to complete forms, which support a finding of more total burden hours (85,508) than there are in the approved information collection (82,348).

FSIS has made the following estimates based upon an information collection assessment:

Estimate of Burden: FSIS estimates that it will take respondents an average of 30 minutes per response.

Respondents: Official meat and poultry establishments, official egg plants, and foreign establishments.

Estimated No. of Respondents: 7,536.

Estimated No. of Annual Responses per Respondent: 21.7.

Estimated Total Annual Burden on Respondents: 85,508 hours.

Copies of this information collection assessment can be obtained from John O'Connell, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue, SW., Room 3532 South Building, Washington, DC 20250, (202) 720–0345.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS' functions, including whether the information will have practical utility; (b) the accuracy of FSIS' estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and, (d) ways to minimize the burden of the collection of information on establishments, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology. Comments may also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Additional Public Notification

Public awareness of all segments of rulemaking and policy development is important. Consequently, in an effort to ensure that the public and in particular minorities, women, and persons with disabilities, are aware of this notice, FSIS will announce it on-line through the FSIS Web page located at *http://www.fsis.usda.gov/regulations/2007_Notices_Index/index.asp.*

FSIS also will make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to our constituents and stakeholders. The Update is communicated via Listserv, a free e-mail subscription service consisting of industry, trade, and farm groups, consumer interest groups, allied health professionals, scientific professionals, and other individuals who have requested to be included. The Update also is available on the FSIS Web page. Through Listserv and the Web page, FSIS is able to provide information to a much broader, more diverse audience.

In addition, FSIS offers an e-mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/news_and_events/email_subscription/.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

Alfred V. Almanza,

Administrator.

[FR Doc. E7–17735 Filed 9–7–07; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee will meet on Wednesday, September 26, 2007 at the Okanogan and Wenatchee National Forests Headquarters office, 215 Melody Lane, Wenatchee, WA. This meeting will begin at 9:30 a.m. and continue until 3:30 p.m. During this meeting Provincial Advisory Committee members will share information on new developments relating to the Northwest Forest Plan, receive an update on the Travel Management Plan, the Recreation Site Facilities Master Plan, the Tripod Fire salvage process, and learn about a conservation community wilderness proposal. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–664–9200.

Dated: September 5, 2007.

Paul Hart,

Designated Federal Official, Okanogan and Wenatchee National Forests.

[FR Doc. 07–4414 Filed 9–7–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Opal Creek Scenic Recreation Area (SRA) Advisory Council

AGENCY: Forest Service, USDA Forest Service.

ACTION: Notice of meeting.

SUMMARY: Opal Creek Scenic Recreation Area Advisory Council meetings will convene in Stayton, Oregon on Wednesday, September 26, 2007. These meetings are scheduled to begin at 6:30 p.m., and will conclude at approximately 8:30 p.m. Meetings will be held in the South Room of the Stayton Community Center located on 400 West Virginia Street in Stayton, Oregon.

The Opal Creek Wilderness and Opal Creek Scenic Recreation Area Act of 1996 (Opal Creek Act) (Pub. L. 104–208) directed the Secretary of Agriculture to establish the Opal Creek Scenic Recreation Area Advisory Council. The Advisory Council is comprised of twelve members representing state, county and city governments, and representatives of various organizations, which include mining industry, environmental organizations, inholders in Opal Creek Scenic Recreation Area, economic development, Indian tribes, and public at large. The council provides advice to the Secretary of Agriculture on preparation of a comprehensive Opal Creek Management Plan for the SRA, and consults on a periodic and regular basis on the management of the area. Tentative agenda items include: new advisory council orientation and next steps, and project updates. A direct public comment period is tentatively scheduled to begin at 8 p.m. Time allotted for individual presentations will be limited to 3 minutes. Written comments are encouraged, particularly if the material cannot be presented within the time limits of the comment period. Written comments may be submitted prior to the scheduled meeting by sending them to Designated Federal Official Paul Matter at the address given below.

FOR FURTHER INFORMATION CONTACT: For more information regarding this meeting, contact Designated Federal

Official Paul Matter; Willamette National Forest, Detroit Ranger District, HC 73 Box 320, Mill City, OR 97360; (503) 854–3366.

Dated: September 4, 2007.

Scott G. Fitzwilliams,

Acting Forest Supervisor.

[FR Doc. 07–4411 Filed 9–7–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–816)

Certain Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review

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

SUMMARY: In response to requests from petitioners,[1] the Department of Commerce (the Department) is conducting the thirteenth administrative review of the antidumping order on corrosion–resistant carbon steel flat products (CORE) from Korea. This review covers three manufacturers and exporters (collectively, the respondents) of the subject merchandise: Dongbu Steel Co., Ltd., (Dongbu); Hyundai HYSCO (HYSCO); and Union Steel Manufacturing Co., Ltd. (Union). The period of review (POR) is August 1, 2005, through July 31, 2006. We preliminarily determine that during the POR, Dongbu, HYSCO, and Union made sales of subject merchandise at less than normal value (NV). In addition, we are preliminary rescinding this review with respect to Pohang Iron & Steel Company, Ltd. (POSCO) and Pohang Coated Steel Co., Ltd. (POCOS) (collectively, the POSCO Group), as a result of petitioners timely withdrawal of its review request. If these preliminary results are adopted in the final results of this administrative review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR.

EFFECTIVE DATE: September 10, 2007

FOR FURTHER INFORMATION CONTACT: Jolanta Lawska or George McMahon (Union), Preeti Tolani (Dongbu), and Victoria Cho or Christopher Hargett (HYSCO), AD/CVD Operations, Office 3, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–8362, (202) 482–1167, (202) 482–0395, (202) 482–5075 and (202) 482–4161, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 19, 1993, the Department published the antidumping order on CORE from Korea. *See Antidumping Duty Orders on Certain Cold–Rolled Carbon Steel Flat Products and Certain Corrosion–Resistant Carbon Steel Flat Products from Korea*, 58 FR 44159 (August 19, 1993) (Orders on Certain Steel from Korea). On August 1, 2006, we published in the **Federal Register** the *Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 71 FR 43441 (August 1, 2006). On August 31, 2006, respondents and petitioners requested a review of Dongbu, HYSCO, the POSCO Group, and Union. The Department initiated this review on September 29, 2006. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006).

During the most recently completed segments of the proceeding in which Dongbu, HYSCO, the POSCO Group, and Union participated, the Department disregarded sales below the cost of production (COP) that failed the cost test.[2] Therefore, pursuant to section 773(b)(2)(A)(ii) of the Tariff Act of 1930, as amended (the Act), we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of NV in this review were made at prices below the COP. We instructed Dongbu, HYSCO, the POSCO Group, and Union to respond to sections A–D of the initial questionnaire,[3] which we issued on September 13, 2006.

On December 28, 2006, the petitioners timely withdrew their request for an administrative review of the POSCO Group. Thus, we are preliminary rescinding the request for review of the antidumping order for the POSCO Group.

On April 19, 2007, the Department published a notice extending the time period for issuing the preliminary results of the thirteenth administrative review from May 3, 2007, to August 31, 2007. *See Corrosion–Resistant Carbon Steel Flat Products from Korea: Extension of Time Limits for the Preliminary Results of Antidumping Duty Administrative Review*, 72 FR 19688 (April 19, 2007).

Rescission of Administrative Review for the POSCO Group

As provided in 19 CFR 351.213(d)(1), ''[t]he Secretary will rescind an administrative review under this section, in whole or in part, if a party that requested a review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review.'' The petitioners withdrew their request for an administrative review within 90 days of the date of publication of the notice of initiation of the instant administrative review and no other party requested an administrative review of the POSCO Group. Therefore, the Department is rescinding the administrative review with respect to the POSCO Group.

Dongbu

On November 10, 2006, Dongbu submitted its section A response to the initial questionnaire. On November 20, 2006, Dongbu submitted its sections B–D response to the initial questionnaire. On February 9, 2007, Dongbu submitted its supplemental questionnaire responses for sections A–C. Dongbu submitted its responses to the Department's three section D supplemental questionnaires on March 12, 2007, March 26, 2007, and April 19, 2007, respectively.

Union

On November 13, 2006, Union submitted its section A response to the initial questionnaire. On November 20, 2006, Union submitted its sections B–C response to the initial questionnaire. Union submitted its responses to the Department's three section A–C supplemental questionnaires on February 2, 2007, April 16, 2007 and June 1, 2007, respectively.

[1] Petitioners are the United States Steel Corporation (U.S. Steel) and Mittal Steel USA ISG, Inc. (Mittal Steel USA).

[2] *Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea: Notice of Preliminary Results of Antidumping Duty Administrative Review*, 71 FR 53370, 53375 (September 11, 2006) (*Preliminary Results of the 12th Review of CORE from Korea); Notice of Final Results of the Twelfth Administrative Review of the Antidumping Duty Order on Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea*, 72 FR 13086 (March 20, 2007) and accompanying *Issues and Decisions Memorandum; and Certain Corrosion-Resistant Carbon Steel Flat Products from the Republic of Korea; Notice of Amended Final Results of the Twelfth Administrative Review*, 72 FR 20815 (April 26, 2007).

[3] Section A: Organization, Accounting Practices, Markets and Merchandise
Section B: Comparison Market Sales
Section C: Sales to the United States
Section D: Cost of Production and Constructed Value

HYSCO

On November 3, 2006, HYSCO submitted its section A response to the Department's initial questionnaire. On November 22, 2006, HYSCO submitted its section B–D response to the Department's initial questionnaire. HYSCO submitted its responses to the Department's three section A–D supplemental questionnaires on January 29, 2007, February 20, 2007, and May 24, 2007, respectively.

Verification

The Department conducted the sales verification of Dongbu and HYSCO, from June 18 through 29, 2007, and Union from July 23 through 27, 2007, in Seoul, South Korea. The Department conducted the cost verification of HYSCO in Seoul, South Korea, from July 31 through August 4, 2007. The Department will conduct the cost verification of Dongbu and Union in Seoul, South Korea, after these preliminary results.

Period of Review

The POR covered by this review is August 1, 2005, through July 31, 2006.

Scope of the Order

This order covers flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the Harmonized Tariff Schedule of the United States (HTSUS) under item numbers 7210.30.0030, 7210.30.0060, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.49.0091, 7210.49.0095, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.3000, 7215.90.5000, 7217.20.1500, 7217.30.1530, 7217.30.1560, 7217.90.1000, 7217.90.5030, 7217.90.5060, and 7217.90.5090. Included in the order are flat–rolled products of non–rectangular cross–section where such cross–section is achieved subsequent to the rolling process including products which have been beveled or rounded at the edges (i.e., products which have been ''worked after rolling''). Excluded from this order are flat–rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin–free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded from this order are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness. Also excluded from this order are certain clad stainless flat–rolled products, which are three–layered corrosion–resistant carbon steel flat–rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat–rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio.

These HTSUS item numbers are provided for convenience and customs purposes. The written descriptions remain dispositive.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all CORE products produced by the respondents, covered by the scope of the order, and sold in the home market during the POR to be foreign like products for the purpose of determining appropriate product comparisons to CORE sold in the United States.

Where there were no sales in the ordinary course of trade of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of the characteristics listed in Appendix V of the Department's antidumping questionnaire. In making the product comparisons, we matched foreign like products based on the Appendix V physical characteristics reported by each respondent. Where sales were made in the home market on a different weight basis from the U.S. market (theoretical versus actual weight), we converted all quantities to the same weight basis, using the conversion factors supplied by the respondents, before making our fair–value comparisons.

Normal Value Comparisons

To determine whether sales of CORE by the respondents to the United States were made at less than NV, we compared the Export Price (EP) or Constructed Export Price (CEP) to the NV, as described in the ''Export Price/Constructed Export Price'' and ''Normal Value'' sections of this notice. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted–average prices for NV and compared these to individual U.S. transactions.

Export Price/Constructed Export Price

We calculated the price of U.S. sales based on CEP, in accordance with section 772(b) of the Act, which defines the term ''constructed export price'' as ''the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under subsections (c) and (d)'' of this section. In contrast, section 772(a) of the Act defines ''export price'' as ''the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of the subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States, as adjusted under subsection (c)'' of this section.

In determining whether to classify U.S. sales as either EP or CEP sales, the Department must examine the totality of the circumstances surrounding the U.S. sales process, and assess where the reviewed sales or agreements of sale were made for purposes of section 772(b) of the Act. In the instant case, the record establishes that the sales were made in the United States after importation. Dongbu's, HYSCO's, and Union's affiliates in the United States (1) took title to the subject merchandise and (2) invoiced and received payment from the unaffiliated U.S. customers for their sales of the subject merchandise to those U.S. customers. Thus, the Department has determined that these U.S. sales should be classified as CEP transactions under section 772(b) of the Act.

For Dongbu, HYSCO, and Union, we calculated CEP based on packed prices to unaffiliated customers in the United

States. Where appropriate, we made deductions from the starting price for foreign inland freight, foreign inland insurance, foreign brokerage and handling, international freight, marine insurance, U.S. warehousing expenses, U.S. wharfage, U.S. inland freight, U.S. brokerage and handling, loading expenses, other U.S. transportation expenses, U.S. customs duties, commissions, credit expenses, letter of credit expenses, warranty expenses, other direct selling expenses, inventory carrying costs incurred in the United States, and other indirect selling expenses in the country of manufacture and the United States associated with economic activity in the United States. Pursuant to section 772(d)(3) of the Act, we made an adjustment for CEP profit. Where appropriate, we added interest revenue to the gross unit price.

Consistent with the Department's normal practice, for Union we added the reported duty drawback to the gross unit price. We did so in accordance with the Department's long–standing test, which requires that: (1) the import duty and rebate be directly linked to, and dependent upon, one another; and (2) the company claiming the adjustment demonstrate that there were sufficient imports of imported raw materials to account for the duty drawback received on the exports of the manufactured product.

HYSCO's Sales of Subject Merchandise that were Further Manufactured and Sold as Non–Subject Merchandise in the United States

In its Section A questionnaire response and on September 27, 2006, HYSCO requested that the Department exclude certain POR sales of subject merchandise imported by its wholly owned U.S. subsidiary, HYSCO America Company (HAC), that were further manufactured after importation and sold as non–subject merchandise in the United States, citing ''the extreme difficulty in calculating CEP for these sales through HAC.'' The Department issued several supplemental questionnaires to HYSCO regarding these HAC CEP sales.

Section 772(e) of the Act provides that when the value added in the United States by an affiliated party is likely to exceed substantially the value of the subject merchandise, the Department shall use one of the following prices to determine CEP if there is a sufficient quantity of sales to provide a reasonable basis of comparison and the use of such sales is appropriate: (1) The price of identical subject merchandise sold by the exporter or producer to an unaffiliated person; or (2) The price of other subject merchandise sold by the exporter or producer to an unaffiliated person.

Our analysis showed that the value added by the affiliated party to the subject merchandise after importation in the United States was significantly greater than the 65 percent threshold we use in determining whether the value added in the United States by an affiliated party substantially exceeds the value of the subject merchandise. *See* 19 CFR 351.402 (c)(2). We then considered whether there were sales of identical subject merchandise or other subject merchandise sold in sufficient quantities by the exporter or producer to an unaffiliated person that could provide a reasonable basis of comparison. In addition to the sales to HAC that were further manufactured, HYSCO also had CEP sales of similar, but not identical, subject merchandise to unaffiliated customers in the United States in back–to-back transactions through another HYSCO affiliate in the United States, Hyundai HYSCO USA (''HHU'').

Decisions as to the appropriate methodology for determining CEP for sales involving further manufacturing generally must be made on a case–by-case basis. In this instance, the quantity of sales of identical or other subject merchandise to an unaffiliated person is relatively small. However, another reasonable method for determining CEP for the HAC CEP sales is not evident. In this case, the value added after importation is very large and the further manufacturing very complex. Therefore, similar to our practice in other cases, see, e.g., *Certain Hot–Rolled Carbon Steel Flat Products from the Netherlands; Final Results of Antidumping Duty Administrative Reviews*, 72 FR 28676 (May 22, 2007), we relied on HYSCO's other sales of similar merchandise to unaffiliated parties in the United States as the basis for calculating CEP on HYSCO's sales through HAC. Although we have relied on a relatively small quantity of sales, as under the circumstances here this is the most reasonable methodology, we will continue to assess whether such quantities provide an adequate basis for our dumping analysis in other cases. Therefore, in this and future reviews we will reexamine the appropriate methodology to use when presented with similar circumstances.

Normal Value

Based on a comparison of the aggregate quantity of home market and U.S. sales, we determined that the quantity of the foreign like product sold in the exporting country was sufficient to permit a proper comparison with the sales of the subject merchandise to the United States, pursuant to section 773(a) of the Act. Therefore, in accordance with section 773(a)(1)(B)(i) of the Act, we based NV on the price at which the foreign like product was first sold for consumption in the home market, in the usual commercial quantities and in the ordinary course of trade.

Where appropriate, we deducted rebates, discounts, inland freight (offset, where applicable, by freight revenue), inland insurance, and packing. Additionally, we made adjustments to NV, where appropriate, for credit expenses, warranty expenses, post–sale warehousing, and differences in weight basis. We also made adjustments, where appropriate, for home market indirect selling expenses and inventory carrying costs to offset U.S. commissions.

We also increased NV by U.S. packing costs in accordance with section 773(a)(6)(A) of the Act. We made adjustments to NV for differences in cost attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act.

For purposes of calculating NV, section 771(16) of the Act defines ''foreign like product'' as merchandise which is either (1) identical or (2) similar to the merchandise sold in the United States. When there are no identical products sold in the home market, the products which are most similar to the product sold in the United States are identified. For the non–identical or most similar products which are identified based on the Department's product matching criteria, an adjustment is made to the home market sales price to account for the actual physical differences between the products sold in the United States and the home market or third country market. See 19 CFR 351.411 and section 773(a)(6)(C)(ii) of the Act.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade (LOT) as the CEP sales, to the extent practicable. When there were no sales at the same LOT, we compared U.S. sales to comparison market sales at a different LOT.

Pursuant to 19 CFR 351.412, to determine whether CEP sales and NV sales were at different LOTs, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's–length) customers. If the comparison market

sales are at a different LOT and the differences affect price comparability, as manifested in a pattern of consistent price differences between sales at different LOTs in the country in which NV is determined, we will make an LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV LOT is at a more advanced stage of distribution than the CEP LOT and the data available do not provide an appropriate basis to determine an LOT adjustment, we will grant a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate from South Africa*, 62 FR 61731, 61732–33 (November 19, 1997).

We did not make an LOT adjustment under 19 CFR 351.412(e) because, as there was only one home market LOT for each respondent, we were unable to identify a pattern of consistent price differences attributable to differences in LOTs (*see* 19 CFR 351.412(d)). Under 19 CFR 351.412(f), we are preliminarily granting a CEP offset for Dongbu, HYSCO, and Union because the NV for each company is at a more advanced LOT than the LOT for their U.S. CEP sales.

For a detailed description of our LOT methodology and a summary of company–specific LOT findings for these preliminary results, *see* the August 31, 2007, *Calculation Memorandum for Dongbu Steel Co., Ltd.; Calculation Memorandum for Hyundai HYSCO*; and *Calculation Memorandum for Union Steel Manufacturing Co., Ltd.*, of which the public versions are on file in the Central Records Unit (CRU), Import Administration, Washington, DC, HCHB Building, Room B–099.

Cost of Production

A. Calculation of COP

We are investigating COP for Dongbu, HYSCO, and Union because during the most recently completed segments of the proceeding in which Dongbu, HYSCO, and Union participated, the Department found and disregarded sales that failed the cost test. We calculated a company–specific COP for Dongbu, HYSCO, and Union based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home–market selling expenses, selling, general and administrative expenses (SG&A), and packing costs in accordance with section 773(b)(3) of the Act. We relied on Dongbu's, HYSCO's, and Union's information as submitted.

In accordance with section 773(b)(3) of the Act, we calculated COP based on the sum of the respondents' cost of materials and fabrication for the foreign like product, plus amounts for general and administrative (G&A) expenses and interest expenses. We relied on the COP information provided by Dongbu in its questionnaire responses, except for the following instances where the information was not appropriately quantified or valued:

1. We adjusted Dongbu's reported cost of manufacturing (COM) to appropriately value the claimed scrap offset.
2. We revised the reported G&A expense ratio to exclude certain items of exchange gains and losses. In addition, we adjusted the denominator used to calculate the G&A expense ratio for the adjustment made above.

For further discussion of these adjustments, *see* the Memorandum to Neal Halper entitled, *Cost of Production and Constructed Value Adjustments for the Preliminary Results—Dongbu Steel Co., Ltd.*, dated August 30, 2007.

B. Test of Home–Market Prices

In determining whether to disregard home market sales made at prices below the COP, as required under sections 773(b)(1)(A) and (B) of the Act, we compared the weighted–average COP figures to home market sales of the foreign like product and we examined whether (1) within an extended period of time, such sales were made in substantial quantities, and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product–specific basis, we compared the COP to the home market prices (not including VAT), less any applicable movement charges, discounts, and rebates.

C. Results of COP Test

Pursuant to section 773(b)(1) of the Act, we may disregard below–COP sales in the determination of NV if these sales have been made within an extended period of time in substantial quantities and were not at prices which permit recovery of all costs within a reasonable period of time. Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP for at least six months of the POR, we determined that sales of that model were made in ''substantial quantities'' within an extended period of time, in accordance with sections 773(b)(2)(B) and (C) of the Act. Where prices of a respondent's sales of a given product were below the per–unit COP at the time of sale and below the weighted–average per–unit costs for the POR, we determined that sales were not at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. In such cases, we disregarded the below–cost sales in accordance with section 773(b)(1) of the Act.

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of a respondent's sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because we determined that the below–cost sales were not made in ''substantial quantities.''

We tested and identified below–cost home market sales for Dongbu, HYSCO, and Union. We disregarded individual below–cost sales of a given product and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. *See* the August 31, 2007, *Calculation Memorandum for Dongbu Steel Co., Ltd.; Calculation Memorandum for Hyundai HYSCO*; and *Calculation Memorandum for Union Steel Manufacturing Co., Ltd.*

Arm's–Length Sales

Dongbu and HYSCO also reported that they made sales in the home market to affiliated parties. The Department calculates NV based on a sale to an affiliated party only if it is satisfied that the price to the affiliated party is comparable to the price at which sales are made to parties not affiliated with the producer or exporter, *i.e.*, sales at arm's length. *See* 19 CFR 351.403(c).

To test whether these sales were made at arm's length, we compared the starting prices of sales to affiliated and unaffiliated customers net of all movement charges, direct selling expenses, discounts and packing. In accordance with the Department's current practice, if the prices charged to an affiliated party were, on average, between 98 and 102 percent of the prices charged to unaffiliated parties for merchandise identical or most similar to that sold to the affiliated party, we considered the sales to be at arm's–length prices. *See Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative: Ninth Administrative Review of the Antidumping Duty Order on Certain Pasta from Italy*, 71 FR 45017, 45020 (August 8, 2006);

19 CFR 351.403(c). Conversely, where we found sales to the affiliated party that did not pass the arm's–length test, all sales to that affiliated party have been excluded from the NV calculation.

See Antidumping Proceedings: Affiliated Party Sales in the Ordinary Course of Trade, 67 69186, 69187 (November 15, 2002).

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve Bank.

Preliminary Results of the Review

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

Producer/Manufacturer	Weighted–Average Margin
Dongbu	4.96 %
HYSCO	0.51 %
Union	4.35 %

The Department will disclose calculations performed within five days of the date of publication of this notice to the parties of this proceeding in accordance with 19 CFR 351.224(b). Interested parties may submit case 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 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). Parties submitting arguments in this proceeding are requested to submit with the argument: 1) a statement of the issue, 2) a brief summary of the argument, and 3) a table of authorities. Case and rebuttal briefs and comments must be served on interested parties in accordance with 19 CFR 351.303(f). Further, parties submitting written comments are requested to provide the Department with an additional copy of the public version of any such comments on a diskette.

An interested party may request a hearing within 30 days of publication of these preliminary results. *See* 19 CFR 351.310(c). Any hearing, if requested, ordinarily will be held two days after the due date of the rebuttal briefs. The Department will issue the final results of this administrative review, which will include the results of its analysis of issues raised in any such comments, or at a hearing, if requested, within 120 days of publication of these preliminary results.

Assessment Rate

Upon completion of this administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with 19 CFR 351.212. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of 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.

Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

The following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of CORE for Korea entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rates established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company–specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in these reviews, a prior review, or the original less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these or any previous review conducted by the Department, the cash deposit rate will be 17.70 percent, the ''All Others'' rate established in the LTFV. *See Orders on Certain Steel from Korea*. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 31, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–17756 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–570–886

Polyethylene Retail Carrier Bags from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Review

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

SUMMARY: In response to a request from the Polyethylene Retail Carrier Bag Committee,[1] which represents domestic producers of polyethylene retail carrier bags, and individual requests from certain manufacturers/exporters of subject merchandise located in the People's Republic of China (''PRC''), the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on polyethylene retail carrier bags (''PRCBs'') from the PRC. The

[1] Consisting of Hilex Poly Company, LLC and the Superbag Corporation (collectively, ''the petitioners'').

Department has reviewed shipments of subject merchandise made by Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd. (collectively, ''Nozawa''), and Rally Plastics Co., Ltd. (''Rally''), during the period August 1, 2005, through July 31, 2006.

We preliminarily find that Nozawa and Rally made U.S. sales below normal value (''NV'') during the period of review (''POR''). The preliminary results are listed below in the section entitled ''Preliminary Results of Review.'' If these preliminary results are adopted in our final results, we will instruct U.S. Customs and Border Protection (''CBP'') to assess the *ad valorem* margins against the entered value of each entry of the subject merchandise during the POR.

EFFECTIVE DATE: September 10, 2007.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor, Zev Primor or 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) 482–5831, (202) 482–4114, and (202) 482–4081, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 2004, the Department published the antidumping duty order on PRCBs from the PRC. *See Antidumping Duty Order: Polyethylene Retail Carrier Bags From the People's Republic of China*, 69 FR 48201 (August 9, 2004). On August 1, 2006, the Department notified interested parties of the opportunity to request an administrative review of this antidumping duty order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request an Administrative Review*; 71 FR 43441 (August 1, 2006). In accordance with 19 CFR 351.213(b), from August 11, 2006, through August 29, 2006, the Department received letters from the following companies in which each company requested that the Department conduct an administrative review of its sales to the United States made during the POR: Chun Hing Plastic Packaging Mfy. Ltd. and Chun Yip Plastic Bag Factory (collectively, ''Chun Hing''); Crown Polyethylene Products (Int'l) Ltd. (''Crown''); Heng Rong Plastic Products Co., Ltd. (''Heng Rong''); Nozawa; Rally; and Samson Plastic Manufactory Co., Ltd. (''Samson''). On August 31, 2006, in accordance with 19 CFR 351.213(b), the petitioners requested that the Department conduct an administrative review of Rally's sales of subject merchandise to the United States made during the POR. On September 29, 2006, the Department initiated an antidumping duty administrative review covering Chun Hing, Crown, Heng Rong, Nozawa, Rally, and Samson. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006) (''*Initiation Notice*'').

The petitioners, on October 30, 2006, requested that the Department determine whether antidumping duties have been absorbed by the companies subject to the review. On November 20, 2006, Heng Rong notified the Department that it was withdrawing its request for administrative review. On November 20, 2006, the Department issued a quantity and value (''Q&V'') questionnaire, and a separate rate application/certification, to all of the manufacturers/exporters noted above. Crown withdrew its request for review on November 28, 2006. The Department received responses to the Q&V questionnaire from Chun Hing, Samson, and Rally on December 4, 2007, and from Nozawa on December 8, 2007. Based upon these responses, the Department selected Nozawa and Rally as mandatory respondents in this administrative review on December 19, 2006. On that same day, the Department issued the standard non–market economy (''NME'') antidumping duty questionnaire to Nozawa and Rally. On January 19, 2007, the Department received separate rate applications from Chun Hing and Samson. The Department issued a supplemental questionnaire to Chun Hing and Samson concerning their separate rate applications on February 15, 2007. Between January and July 2007, Nozawa and Rally submitted responses to the Department's original and supplemental questionnaires covering sections A, C, D, and E of the standard NME antidumping duty questionnaire.[2] The petitioners submitted comments on Rally's methodology for allocating its consumption of inputs on August 13, 2007, and Rally submitted rebuttal comments on August 20, 2007.

[2] Section A of the NME questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under investigation that it sells, and the manner in which it sells that merchandise in all of its markets. Section C requests a complete listing of U.S. sales. Section D requests information on the factors of production of the merchandise sold in or to the United States. Section E requests information on further manufacturing.

Period of Review

The POR for this administrative review is August 1, 2005, through July 31, 2006.

Scope of the Order

The merchandise subject to this antidumping duty order is PRCBs, which may be referred to as t–shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non–sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.*, grocery, drug, convenience, department, specialty retail, discount stores, and restaurants, to their customers to package and carry their purchased products. The scope of the investigation excludes (1) polyethylene bags that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) polyethylene bags that are packed in consumer packaging with printing that refers to specific end–uses other than packaging and carrying merchandise from retail establishments, *e.g.*, garbage bags, lawn bags, trash–can liners.

Imports of the subject merchandise are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (''HTSUS'').[3] This subheading may also cover products that are outside the scope of this investigation. Furthermore, although the HTSUS subheading is provided for convenience and customs purposes, our written description of the scope of this order is dispositive.

Partial Rescission of Review

In accordance with 19 CFR 351.213(d)(1), we are rescinding this administrative review with respect to Heng Rong and Crown. As noted above, on November 20 and 28, 2006, Heng

[3] Until July 1, 2005, these products were classifiable under HTSUS 3923.21.0090 (Sacks and bags of polymers of ethylene, other). *See* Harmonized Tariff Schedule of the United States (2005)—Supplement 1 Annotated for Statistical Reporting Purposes Change Record—17th Edition—Supplement 1, available at *http://hotdocs.usitc.gov/docs/tata/hts/bychapter/0510/0510chgs.pdf.*

Rong and Crown, respectively, withdrew their requests for an administrative review. Since these requests to withdraw from the review were filed within 90 days of the *Initiation Notice*, and no other party requested an administrative review of U.S. sales made by either company, the Department is rescinding the review with respect to Heng Rong and Crown.

Partial Preliminary Rescission of Review

Samson reported that it had three sales during the POR. However, according to the entry summary information provided by Samson, all of these sales entered the United States after the POR. See Samson's January 19, 2007, separate rate application response at page 4 and Exhibit 1. The Department confirmed with Samson that it had no sales of subject merchandise that entered the United States during the POR. *See* Memorandum from Mark Manning, Program Manager, to the File, ''Entries Of Subject Merchandise Made by Samson,'' dated August 30, 2007.

The Department's practice, supported by substantial precedent, requires that there be entries during the POR upon which to assess antidumping duties, to conduct an administrative review. *See*, *e.g.*, *Certain Cut–To-Length Carbon–Quality Steel Plate Products From Italy: Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 11178 (March 6, 2006) 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) (unchanged in final results). Pursuant to 19 CFR 351.213(d)(3), the Department will rescind an administrative review in whole or only with respect to a particular exporter or producer if we conclude that during the period of review there were ''no entries, exports, or sales of the subject merchandise.'' Since Samson confirmed that it did not enter subject merchandise into the United States during the POR, there are no entries to assess. Therefore, in accordance with 19 CFR 351.213(d)(3), we are preliminarily rescinding the administrative review with respect to Samson.

Duty Absorption

On October 30, 2006, the petitioners requested that the Department determine whether antidumping duties had been absorbed for U.S. sales of PRCBs made during the POR by Chun Hing, Crown, Nozawa, Heng Rong, Rally, and Samson. Section 751(a)(4) of the Tariff 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. As noted above, we have rescinded the review for Crown and Heng Rong, and preliminarily rescinded for Samson, thus making the petitioner's request with respect to these companies moot. In addition, Rally and Chun Hing did not sell subject merchandise in the United States through an affiliated importer. Thus, according to section 751(a)(4) of the Act, we did not investigate whether Rally and Chun Hing absorbed duties. In this case, only Nozawa sold subject merchandise in the United States through an affiliated importer. Because the antidumping duty order underlying this review was issued in 2004, and this review was initiated in 2006, we are conducting a duty absorption investigation in 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), *Notice of Final Results and Final Rescission in Part of Antidumping Duty Administrative Review: Certain Stainless Steel Butt–Weld Pipe Fittings From Taiwan*, 70 FR 73727 (December 13, 2005) (unchanged in final results). Prior to these preliminary results, the Department asked Nozawa to provide evidence to demonstrate that its unaffiliated U.S. purchasers will pay any antidumping duties ultimately assessed on entries of subject merchandise. Nozawa did not respond to the Department's request. *See* Memorandum from Mark Manning, Program Manager, Ad/CVD Operations, Office 4, to the File, regarding ''Nozawa's Response to Request for Duty Absorption Information,'' dated August 16, 2007. Accordingly, based on the information on the record, we cannot conclude that the unaffiliated purchasers in the United States will pay the ultimately assessed duties. Because Nozawa did not rebut the duty–absorption presumption with evidence that its unaffiliated U.S. purchasers will pay the full duty ultimately assessed on the subject merchandise, we preliminarily find that antidumping duties have been absorbed by Nozawa on all U.S. sales made through its affiliated importers.

NME Country Status

In every case conducted by the Department involving the PRC, the PRC has been treated as an 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

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, there is a rebuttable presumption that all companies within the PRC 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), 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).

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. The test focuses, rather, on controls over the investment, pricing, and output decision–making process at the individual firm level. *See, e.g.*, *Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut–to-Length Carbon Steel Plate From Ukraine*, 62 FR 61754, 61757 (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).

Chun Hing, Nozawa, and Rally provided company–specific separate–rate information and stated that the standards for the assignment of separate rates have been met because they are privately–owned trading companies incorporated and based in Hong Kong. *See* Chun Hing's January 19, 2007, separate–rate application response at 17; Nozawa's March 16, 2007, response at A2; Rally's March 12, 2007, response at A2–A3. Because each of these companies is foreign owned, it is not necessary to undertake additional separate–rates analysis for the Department to determine that the export activities of Chun Hing, Nozawa, and Rally are independent from the PRC government's control. Accordingly, Chun Hing, Nozawa, and Rally are eligible for a separate rate. *See, e.g.*, *Brake Rotors From the People's Republic of China: Preliminary Results of the Tenth New Shipper Review*, 69 FR 30875, 30876 (June 1, 2004), *Brake Rotors From the People's Republic of China: Final Results of the Tenth New Shipper Review*, 69 FR 52228 (August 25, 2004) (unchanged in the final results) (''*Brake Rotors 10th NSR*''); *Notice of Final Determination of Sales at Less Than Fair Value: Creatine Monohydrate From the People's Republic of China*, 64 FR 71104 (December 20, 1999); and *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). The Department calculated company–specific dumping margins for Nozawa and Rally, and assigned Chun Hing a dumping margin equal to the weighted–average of the dumping margins calculated for Nozawa and Rally.

Surrogate Country and Factors

On March 6, 2007, we issued to interested parties a list of possible surrogate market economy countries and invited parties to (1) comment on the suitability of the countries for use in this administrative review and the level of PRCBs production in those countries, and (2) submit publicly available information from those countries to use in valuing the factors of production (''FOPs'') used by the respondents to produce PRCBs. On April 3, 2007, the petitioners submitted information for the Department to consider in valuing the FOPs. Also on April 3, 2007, and June 18, 2007, Rally submitted information for the Department to consider in valuing the FOPs. All surrogate value data submitted by interested parties were from Indian sources. On May 31, 2007, the Department selected India as the surrogate market economy country for this administrative review.

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 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. On December 21, 2006, the Office of Policy issued a memorandum identifying India as being at a level of economic development comparable to the PRC for the POR. *See* Memorandum from Ron Lorentzen, Director, Office of Policy to Mark Manning, Program Manager, AD/CVD Operations, Office 4, ''Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: Request for a List of Surrogate Countries,'' dated December 21, 2006.

In the Department's March 6, 2007, letter to interested parties requesting surrogate country and surrogate value comments, the Department noted that India is among the countries comparable to the PRC in terms of overall economic development. In addition, based on publicly available information placed on the record (*i.e.*, export data), India is a significant producer of the subject merchandise. *See* Memorandum from Zev Primor, Senior International Trade Compliance Analyst, through Mark Manning, Program Manager, to Abdelali Elouaradia, Office Director, ''Antidumping Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: Selection of a Surrogate Country,'' dated May 31, 2007. Furthermore, we note that India has been the primary surrogate country in past segments of this case, and both Rally and the petitioners submitted surrogate values based on Indian data that are contemporaneous to the POR, which gives further credence to the use of India as a surrogate country. The sources of the surrogate factor values are discussed under the ''Normal Value'' section below and in the Memorandum from Zev Primor, Senior International Trade Compliance Analyst, through Mark Manning, Program Manager, to the File, ''Surrogate Values for the Preliminary Results,'' dated August 31, 2007 (''Surrogate Values Memorandum'').

Normal Value Comparisons

To determine whether Nozawa's and Rally's sales of the subject merchandise to the United States were made at a price below NV, we compared their U.S. price to NV, as described in the ''U.S. Price'' and ''Normal Value'' sections of this notice.

U.S. Price

A. Export Price

In accordance with section 772(a) of the Act, we calculated the export price (''EP'') for sales to the United States by Rally and certain sales by Nozawa 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. We calculated EP for Nozawa and Rally based on the prices to unaffiliated purchasers in the United States. For Nozawa, in accordance with section 772(c) of the Act, we first added gross unit price adjustments and then deducted from the price to unaffiliated purchasers, where appropriate, foreign inland freight, brokerage and handling, international freight, and marine insurance. See Memorandum from Zev Primor, Senior International Trade Compliance Analyst, to the File, ''Analysis for the Preliminary Results of the 2005–2006 Administrative Review of Polyethylene Retail Carrier Bags from the People's Republic of China: Dongguan Nozawa Plastic Products Co., Ltd., and United Power Packaging Ltd.,'' dated August 31, 2007 (''Nozawa Preliminary Analysis Memorandum''). For Rally, also in accordance with section 772(c) of the Act, we first added gross unit price adjustments and then deducted from the price to unaffiliated purchasers, where appropriate, foreign inland freight, brokerage and handling, international freight, and marine

insurance. *See* Memorandum from Maisha Cryor, Senior International Trade Compliance Analyst, to the File, regarding ''Analysis Memorandum for the Preliminary Results of Rally Plastics Co., Ltd.,'' dated August 31, 2007 (''Rally Preliminary Analysis Memorandum'').

B. Constructed Export Price

In accordance with section 772(b) of the Act, CEP is the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter, as adjusted under sections 772(c) and (d) of the Act. In accordance with section 772(b) of the Act, we used CEP for certain of Nozawa's sales because Nozawa sold its subject merchandise to its affiliated companies in the United States Kal Pac Corporation (''Kal Pac'') and Packaging Solutions, Inc. (''PSI''), which, in turn, made the first sales of subject merchandise to unaffiliated U.S. customers. In addition, Nozawa reported that PSI made sales of subject merchandise which it further manufactured in the United States.

We added twelve types of miscellaneous revenue to the gross unit price. *See* Nozawa Preliminary Analysis Memorandum at 2. In accordance with section 772(c)(2) of the Act, we made deductions from Nozawa's starting price for early payment discounts, rebates, foreign inland freight from the plant to the port of exportation, international freight, marine insurance, brokerage and handling, U.S. devanning expense, U.S. duty, inland freight from the warehouse to the unaffiliated U.S. customer, and commissions. Where foreign movement expenses or international movement expenses were provided by NME service providers or paid for in an NME currency, we valued these services using surrogate values. *See* Surrogate Values Memorandum at Attachment VII.. For those expenses that were provided by a market economy provider and paid for in market economy currency, we deducted the actual expenses incurred. *See* Nozawa Preliminary Analysis Memorandum at 2. In accordance with section 772(d)(1) of the Act, the Department additionally deducted credit expenses, inventory carrying costs, and U.S. indirect selling expenses from the U.S. price, all of which relate to commercial activity in the United States. We calculated Nozawa's credit expenses and inventory carrying costs based on the Federal Reserve short–term rate because Nozawa reported that neither Kal Pac nor PSI had short–term borrowings during the POR.

We also deducted an amount for further–manufacturing costs, where applicable, in accordance with section 772(d)(2) of the Act. To calculate the cost of further manufacturing in the United States, we relied on PSI's reported cost of materials, labor, overhead, general and administrative expenses, and financial expenses of the further manufactured materials. In addition, we deducted CEP profit in accordance with sections 772(d)(3) and 772(f) of the Act.

C. Surrogate Values for Expenses Incurred in the PRC for U.S. Sales

Nozawa and Rally reported that for certain U.S. sales, foreign inland freight was provided by an NME vendor or paid for using an NME currency. In such instances, we based the deduction of these charges on surrogate values. We valued foreign inland freight with the surrogate value for truck freight. For foreign brokerage and handling as well as international freight, Nozawa and Rally 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 kilogram of the freight. *See* Surrogate Values Memorandum at Attachment IX.

Normal Value

1. Methodology

Section 773(c)(1)(B) of the Act provides that the Department shall determine the NV using an FOP methodology if the merchandise is exported from an NME and the information does not permit the calculation of NV using home–market prices, third–country prices, or constructed value under section 773(a) of the Act. 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.

The FOPs for PRCBs include: (1) quantities of raw materials employed; (2) hours of labor required; (3) amounts of energy and other utilities consumed; (4) representative capital and selling costs; and (5) packing materials. We used the FOPs reported by respondents for materials, energy, labor, by–products, and packing.

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 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).

2. Factor Methodology

During the POR, Nozawa did not produce certain types of merchandise that were sold during the POR. Consequently, the original FOP database filed by Nozawa did not contain factors of production for those control numbers (''CONNUMs'') sold but not produced by Nozawa during this POR. Because the vast majority of the CONNUMs sold by Nozawa were produced during this POR or the prior POR, Nozawa also submitted on the record of this review the FOP database from the prior review (*i.e.*, the first administrative review). In addition, Nozawa submitted an FOP database incorporating the FOPs for all CONNUMs sold during the POR, using both production data from this and the prior POR. Therefore, for purposes of factor valuation, the Department is using the FOP database incorporating all CONNUMs sold during the POR. We note that certain FOP data were based on similar CONNUMs where the product was not produced in either this or the prior POR. The Department reviewed Nozawa's identification of the most similar matches for the CONNUMs sold but not produced during the first or second POR. In doing so, we determined the product characteristics which have the most significant impact on the cost of materials and then compared all product characteristics of the actual CONNUMS to the product characteristics of the proposed matching CONNUMs. We found that Nozawa's proposed matches were identical in the most significant product characteristics and had some insignificant differences

in other characteristics. Therefore, we accepted Nozawa's assignment of the most similar CONNUMs for those products sold but not produced during the POR. *See* Nozawa Preliminary Analysis Memorandum, at 3.

With respect to Rally, we note that certain bag types produced by Rally contain certain attachments (*e.g.*, plastic handles, plastic drawstring). Rally asserts that it reported its FOPs using an allocation methodology that assigns the consumption of the materials used to produce the attachments equally across all products. In a supplemental questionnaire, the Department asked Rally to allocate its consumption of materials used to produce these attachments to those CONNUMs that actually incorporate these items. *See* the Department's May 27, 2007, section D supplemental questionnaire, at question 54.d. Rally replied that its accounting system does not track costs at this level and they could not report the FOPs in the manner requested by the Department. However, Rally claims that its material FOPs are based on a reasonable allocation methodology. *See* Rally's June 6, 2007, supplemental section D response at 23.

The Department has analyzed Rally's reported sales and consumption data and has made the following determinations. We find that, on an aggregate basis, as would be expected, Rally's total quantity of inputs consumed to produce all subject merchandise sold in the U.S. market during the POR is greater than the total weight of all finished subject merchandise sold in the U.S. market during the POR. *See* Rally Preliminary Analysis Memorandum. However, on a CONNUM–specific level, we find that the total quantity of inputs consumed is less than the total finished weight for many CONNUMs, the vast majority of which have attachments. *Id*. Thus, Rally's inability to allocate the materials consumed for the attachments to the CONNUMs that actually have attachments has distorted the reported FOPs. In order to correct this distortion for the relevant CONNUMs, the Department increased the total reported materials weight by the appropriate percentage so that the revised input material weight is equal to the finished weight of the CONNUM, plus Rally's average yield loss percentage. *Id*. The Department will continue to examine this issue for the final results and will allow Rally one last opportunity to provide alternative methods of allocating its FOPs.

2. Factors of Production Valuation

In accordance with section 773(c) of the Act, we calculated NV based on the FOPs reported by respondents for the POR. To calculate NV, we multiplied the reported per–unit factor–consumption rates by publicly available surrogate values. In selecting the surrogate values, we considered the quality, specificity, and contemporaneity of the data.

Except as noted below, we valued raw material inputs using the weighted–average unit import values derived from the Monthly Statistics of the Foreign Trade of India, as published by the Directorate General of Commercial Intelligence and Statistics of the Ministry of Commerce and Industry, Government of India in the World Trade Atlas, available at *http://www.gtis.com/wta.htm* (''WTA''). For those surrogate values based upon Indian import statistics, we disregarded prices which we have reason to believe or suspect may be subsidized. We have reason to believe or suspect that prices of inputs from Indonesia, South Korea, and Thailand may have been subsidized. We have found in other proceedings that these countries maintain broadly available, non–industry-specific export subsidies and, therefore, it is reasonable to infer that all exports to all markets from these countries may be subsidized. *See Notice of Final Determination of Sales at Less Than Fair Value and Negative Final Determination of Critical Circumstances: Certain Color Television Receivers From the People's Republic of China*, 69 FR 20594 (April 16, 2004) and accompanying Issues and Decision Memorandum at Comment 7; *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), reprinted in 1988 U.S.C.C.A.N. 1547, 1623–24. Therefore, based on the information currently available, we have not used prices from these countries in calculating the surrogate values based on Indian import data. We have also disregarded Indian import data from countries that the Department has previously determined to be NME countries, as well as imports originating from ''unspecified'' countries because the Department could not be certain that they were not from either an NME or a country with generally available export subsidies. *See Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Chlorinated Isocyanurates From the People's Republic of China*, 69 FR 75294, 75300 (December 16, 2004), *Notice of Final Determination of Sales at Less Than Fair Value: Chlorinated Isocyanurates From the People's Republic of China*, 70 FR 24502 (May 10, 2005) (unchanged in the final results). For a comprehensive list of the sources and data used to determine the surrogate vales for the FOPs, by–products, and the surrogate financial ratios for factory overhead, selling, general and administrative expenses (''SG&A''), and profit, *see* Surrogate Values Memorandum at Attachments I and IX.

Where appropriate, we adjusted the Indian import prices by including freight costs to make them delivered prices. Specifically, we added to the Indian import prices 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 Indian import data as the basis of the surrogate value, we calculated inland freight based on the reported distance from the supplier to the factory. We used the freight rates obtained from www.infreight.com to value truck freight. *See* Surrogate Values Memorandum at Attachment VIII.

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 for the subject country. *See Certain Preserved Mushrooms from the People's Republic of China: Final Results of the Antidumping Duty New Shipper Review*, 71 FR 66910 (November 17, 2006). Therefore, where publicly available information contemporaneous with the POR could not be obtained, surrogate values were adjusted using the Wholesale Price Index for India, as published in the *International Financial Statistics* of the International Monetary Fund.

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 at Attachment V.

For direct labor, indirect labor, and packing labor, consistent with 19 CFR 351.408(c)(3), we used the PRC regression–based wage rate as reported on Import Administration's web site. *See* Expected Wages of Selected NME Countries (revised November 2005) (available at *http://ia.ita.doc.gov/wages*). The source of these wage rate data on the Import Administration's website is the Yearbook of Labour Statistics 2003, ILO, (Geneva: 2003), Chapter 5B: Wages in Manufacturing. The years of the reported wage rates range from 2003 through 2004. 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 each respondent. *See* Surrogate Value Memorandum at Attachment VI.

To value factory overhead, SG&A, and profit values, we used information from Smitabh Intercon Limited; M/S Carry Print (India) Private Limited; Kuloday Plastomers Private Limited; Sangeeta Poly Pack Private Limited; and A.P. Polyplast Private Limited for the fiscal year ending March 31, 2006. 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 at Attachment VII.

For packing materials, we used the per–kilogram values obtained from the WTA and made adjustments to account for freight costs incurred between the PRC supplier and Rally's plant. *See* Surrogate Values Memorandum at Attachment II.

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.

Preliminary Results of the Review

The Department has determined that the following preliminary dumping margins exist for the period August 1, 2005, through July 31, 2006:

POLYETHYLENE RETAIL CARRIER BAGS FROM THE PRC

Manufacturer/Exporter	Weighted–Average Margin (Percent)
Chun Hing Plastic Packaging Mfy. Ltd. and Chun Yip Plastic Bag Factory	13.35
Dongguan Nozawa Plastics Products Co., Ltd. and United Power Packaging, Ltd.	2.54
Rally Plastics Co., Ltd.	31.71

Disclosure

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)(1)(ii). Interested parties may submit publicly available information to value factors no later than 20 days after the date of publication of these preliminary results of review. *See* 19 CFR 351.301(c)(3)(ii). Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than five days after the time limit for filing the case briefs. *See* 19 CFR 351.309(d). 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 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 intend 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 intends to 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 U.S. Customs and Border Protection (''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 these 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 (or customer–specific) *ad valorem* or, where the entered value was not known by the respondent, per–unit duty assessment rates based on the ratio of the total amount of the dumping margins calculated for the examined sales to the total entered value, or total quantity, of those same sales. 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*.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of the administrative review for shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided by section 751(a)(2)(C) of the Act: (1) for subject merchandise exported by Chun Hing, Nozawa, and Rally, the cash–deposit rate will be that established in the 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 company–specific rate published for the most recent period; (3) for all other PRC exporters of subject merchandise, which have not been found to be entitled to a separate rate, the cash–deposit rate will be PRC–wide rate of 77.57 percent; (4) for all non–PRC exporters of subject merchandise, the cash–deposit rate will be the rate applicable to the PRC exporter that supplied that exporter. 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)(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: August 31, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–17751 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–533–810)

Notice of Final Results and Final Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India

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

SUMMARY: On March 7, 2007, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on stainless steel bar from India. The period of review is February 1, 2005, through January 31, 2006. This review covers sales of stainless steel bar from India with respect to eight producers/exporters. We provided interested parties with an opportunity to comment on the preliminary results of this review. We have noted the changes made since the preliminary results below in the ''Changes Since the Preliminary Results'' section, below. The final results are listed below in the ''Final Results of Review'' section.

EFFECTIVE DATE: September 10, 2007.

FOR FURTHER INFORMATION CONTACT: Scott Holland or Brandon Farlander, AD/CVD Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–1279 and (202) 482–0182, respectively.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 2007, the Department of Commerce (''the Department'') published *Notice of Preliminary Results of Antidumping Duty Administrative Review, Intent to Rescind and Partial Rescission of Antidumping Duty Administrative Review: Stainless Steel Bar from India*, 72 FR 10151 (March 7, 2007) (''*Preliminary Results*'') in the **Federal Register**.

On March 14, 2007, we issued a supplemental questionnaire to respondent Bhansali Bright Bars Pvt. Ltd (''Bhansali'') to correct information contained in the initial questionnaire responses. On March 28, 2007, we received a timely response to this questionnaire from Bhansali. On April 5, 2007, we met with counsel for Carpenter Technology Corporation, Crucible Specialty Metals, a division of Crucible Materials Corporation, Electralloy Company, North American Stainless, Universal Stainless, and Valbruna Slater Stainless (collectively, the ''petitioners'') to discuss the review–specific average rate applied at the *Preliminary Results* to the respondents that were not selected for individual examination in the review by the Department.[1]

On May 19, 2007, Bhansali submitted a listing of pre–verification corrections to its home market sales listing. On July 5, 2007, the Department published in the **Federal Register** an extension of the time limit for the final results in the antidumping duty administrative review to no later than September 4, 2007, in accordance with 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''). *See Stainless Steel Bar from India: Extension of Time Limit for the Final Results of the Antidumping Duty Administrative Review*, 72 FR 36668 (July 5, 2007).

On July 24, 2007, we notified interested parties that comments on the *Preliminary Results* were due on July 31, 2007, and rebuttal comments were due on August 10, 2007. *See Memorandum to the File, ''Briefing Schedule for Comments on the Preliminary Results in the 2005/2006 Antidumping Duty Administrative Review of Stainless Steel Bar from India,''* dated July 24, 2007. On July 25, 2007, we requested that Bhansali and Venus submit revised sales and cost listings to the Department. We received revised home market sales listings from Venus, and revised sales and cost listings from Bhansali in August 2007.

On July 31, 2007, we received case briefs from the petitioners and Bhansali. On August 2, 2007, we rejected Bhansali's case brief, in accordance with 19 CFR 351.302(d)(i) of the Department's regulations, because it contained new and untimely filed information. On August 4, 2007, we received a revised case brief from Bhansali. On August 6, 2007, we received a rebuttal brief from Bhansali. On August 10, 2007, the petitioners and interested parties Facor Steels, Ltd. (''Facor'') and Mukand Ltd. (''Mukand'') filed rebuttal briefs. We did not receive comments from Venus. The Department did not receive a request for a public hearing from interested parties.

Scope of the Order

Imports covered by the order are shipments of stainless steel bar (''SSB''). SSB means articles of stainless steel in straight lengths that have been either hot–rolled, forged, turned, cold–drawn, cold–rolled or otherwise cold–finished, or ground, having a uniform solid cross section along their whole length in the shape of circles, segments of circles, ovals, rectangles (including squares), triangles, hexagons, octagons, or other convex polygons. SSB includes cold–finished SSBs that are turned or ground in straight lengths, whether produced from hot–rolled bar or from straightened and cut rod or wire, and reinforcing bars that have indentations, ribs, grooves, or other deformations produced during the rolling process.

Except as specified above, the term does not include stainless steel semi–finished products, cut–to-length flat–rolled products (*i.e.*, cut–to-length rolled products which if less than 4.75 mm in thickness have a width measuring at least 10 times the thickness, or if 4.75 mm or more in thickness having a width which exceeds 150 mm and measures at least twice the thickness), wire (*i.e.*, cold–formed products in coils, of any uniform solid cross section along their whole length, which do not conform to the definition of flat–rolled products), and angles, shapes, and sections.

The SSB subject to these reviews is currently classifiable under subheadings 7222.11.00.05, 7222.11.00.50, 7222.19.00.05, 7222.19.00.50, 7222.20.00.05, 7222.20.00.45, 7222.20.00.75, and 7222.30.00.00 of the *Harmonized Tariff Schedule of the United States* (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of the order is dispositive.

On May 23, 2005, the Department issued a final scope ruling that SSB manufactured in the United Arab Emirates out of stainless steel wire rod from India is not subject to the scope of

[1] For the *Preliminary Results*, the Department applied the review-specific, average rate to the following respondents: Isibars Limited, Grand Foundry, Ltd., Sindia Steels Limited, Snowdrop Trading Pvt. Ltd., Facor Steels, Ltd., and Mukand Ltd. *See* the *Preliminary Results* at 10157.

this order. *See* Memorandum from Team to Barbara E. Tillman, ''*Antidumping Duty Orders on Stainless Steel Bar from India and Stainless Steel Wire Rod from India: Final Scope Ruling*,'' dated May 23, 2005, which is on file in the Central Records Unit (''CRU'') located in room B–099 of the main Department building. *See also Notice of Scope Rulings*, 70 FR 55110 (September 20, 2005).

Verification

As provided in section 782(i) of the Act, we conducted verification of the sales information contained in the questionnaire responses submitted by respondent Venus Wire Industries Pvt. Ltd. (''Venus'') in Mumbai, India, in May 2007. The Department reported its findings on July 24, 2007. *See* Memorandum to the File, ''*Verification of the Sales Responses of Venus Wire Industries Pvt. Ltd. in the 2005/2006 Antidumping Duty Administrative Review of Stainless Steel Bar from India*,'' (''Verification Report—Venus'') dated July 24, 2007.

We also conducted verification of the sales and cost information contained in the questionnaire responses submitted by Bhansali in May 2007. The Department reported its findings on July 24, 2007. *See* Memorandum to the File, ''*Verification of the Sales and Cost Responses of Bhansali Bright Bars Pvt. Ltd. in the 2005/2006 Antidumping Duty Administrative Review of Stainless Steel Bar from India,'' (''Verification Report—Bhansali*'') dated July 24, 2007. These reports are on file in the Central Records Unit in room B–099 of the main Department building (''CRU'').

Period of Review

The period of review (''POR'') is February 1, 2005, through January 31, 2006.

Partial Rescission of Review

In the *Preliminary Results*, the Department preliminarily rescinded this review with respect to Akai Asian (''Akai''), Atlas Stainless (''Atlas'') and Meltroll Engineering Pvt. Ltd. (''Meltroll'') pursuant to 19 CFR 351.213(d)(3). The Department confirmed that Akai, Atlas, and Meltroll did not ship subject merchandise to the United States during the POR using U.S. Customs and Border Protection (''CBP'') data. We did not receive comments on this issue. Therefore, pursuant to 19 CFR 351.213(d)(3), and consistent with the *Preliminary Results*, we are rescinding this review with respect to Akai, Atlas, and Meltroll.

Affiliation

As explained in the *Preliminary Results*, we have determined that Venus and its exporter Precision Metals are affiliated within the meaning of section 771(33) of the Act, and also that the two companies should be treated as a single entity for the purposes of this administrative review. Therefore, we find that Venus and Precision Metals should receive a single antidumping duty rate. *See* Memorandum from Scott Holland to Susan H. Kuhbach, Senior Office Director, ''*Relationship of Venus Wire Industries Pvt., Ltd. and Precision Metals*,'' dated February 28, 2007, which is on file in the CRU in room B–099 of the main Department building.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the September 4, 2007, *Issues and Decision Memorandum for the 2005/2006 Antidumping Duty Administrative Review of Stainless Steel Bar from India (''Decision Memorandum''*), which is hereby adopted by this notice. Attached to this notice as an appendix is a list of the issues which parties have raised and to which we have responded in the *Decision Memorandum*. Parties can find a complete discussion of all issues raised in this review and the corresponding recommendations in this public memorandum, which is on file in the Department's CRU. In addition, a complete version of the *Decision Memorandum* can be accessed directly on the Web at http://ia.ita.doc.gov/frn. The paper copy and electronic version of the *Decision Memorandum* are identical in content.

Changes Since the Preliminary Results

Based on our findings at verification, and analysis of comments received, we have made adjustments to the preliminary results calculations for Bhansali and Venus. Brief descriptions of the company–specific changes are discussed below.

Bhansali

Based upon the information obtained at verification, we are deducting billing adjustments from the gross unit price on certain home market sales. We are also reducing billing adjustments for the portion attributable to taxes included in the invoice price. We are deducting from U.S. gross unit price the per–unit certificate of origin expenses incurred on export sales. We are using the cost information provided by Bhansali in its March 28, 2007, submission for certain products that did not have cost data in the *Preliminary Results*.

Venus

We are using Venus' revised home market sales listing submitted on August 13, 2007, which included the verified recalculated credit expenses.

Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below–cost sales of that product because we determined that the below–cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the POR were at prices less than the COP, we determined such sales to have been made in ''substantial quantities.'' *See* section 773(b)(2)(C) of the Act. 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.

For Bhansali and Venus, we found that, for certain products, more than 20 percent of comparison market sales were at prices less than the COP and, thus, the below–cost sales were made within an extended period of time in substantial quantities. In addition, these sales were made at prices that did not provide for the recovery of costs within a reasonable period of time. Therefore, we excluded these sales and used the remaining sales, if any, as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

Final Results of Review

As a result of our review, we determine that the following weighted–average margins exist for the period February 1, 2005, through January 31, 2006:

Exporter/Manufacturer	Margin
Bhansali Bright Bars Pvt. Ltd.	2.01
Venus Wire Industries Pvt. Ltd.	0.03 (*de minimis*)
Review–Specific Average Rate Applicable to the Following Companies:[2]	

Exporter/Manufacturer	Margin
Isibars Limited.	
Grand Foundry, Ltd..	
Sindia Steels Limited.	
Snowdrop Trading Pvt. Ltd..	
Facor Steels, Ltd..	
Mukand Ltd	2.01

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

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Pursuant to 19 CFR 351.212(b)(1), for all sales made by respondents for which they have reported the importer of record and the entered value of the U.S. sales, we have calculated importer–specific assessment rates based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those sales.

Where the respondents did not report the entered value for U.S. sales, we have calculated importer–specific assessment rates for the merchandise in question by aggregating the dumping margins calculated for all U.S. sales to each importer and dividing this amount by the total quantity of those sales. To determine whether the duty assessment rates were *de minimis*, in accordance with the requirement set forth in 19 CFR 351.106(c)(2), we calculated importer–specific *ad valorem* rates based on the estimated entered value. Where the assessment rate is above *de minimis*, we will instruct CBP to assess duties on all entries of subject merchandise by that importer. 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).

The Department clarified its ''automatic assessment'' regulation on May 6, 2003. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003). This clarification applies to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the all–others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

For those companies for which this review is 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)(1)(i).

For the companies requesting a review, but not selected for examination and calculation of individual rates, we calculated a weighted–average assessment rate based on all importer–specific assessment rates excluding any which are zero, *de minimis* or determined entirely on adverse facts available. *See Notice of Final Results of Antidumping Duty Administrative Review: Certain Softwood Lumber Products from Canada*, 70 FR 73437, 73440 (December 12, 2005). The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

Cash Deposit Rates

The following antidumping duty deposits will be required on all shipments of SSB from India entered, or withdrawn from warehouse, for consumption, effective on or after the publication date of these final results of administrative review, as provided by section 751(a)(1) of the Act: (1) the cash deposit rates for the reviewed company will be the rate listed above (except no cash deposit will be required if a company's weighted–average margin is *de minimis*; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in the original less–than-fair–value investigation or a previous review, the cash deposit rate will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received an individual rate; (3) if the exporter is not a firm covered in this review, the previous review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous reviews, the cash deposit rate will be 12.45 percent, the ''all others'' rate established in the less than fair value investigation. *See Stainless Steel Bar from India; Final Determination of Sales at Less Than Fair Value*, 59 FR 66915 (December 28, 1994). These cash deposit requirements shall remain in effect until publication of the final results of the next administrative review.

Notification to Importers

This notice serves as a final 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 doubled antidumping duties.

Notification Regarding Administrative Protective Orders

This notice also serves as a reminder to parties subject to administrative protective orders (''APOs'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. 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 terms of an APO is a violation which is subject to sanction.

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

Dated: September 4, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

APPENDIX I

List of Comments in the Decision Memorandum

General Comments

Comment 1: Application of Review–Specific Rate to Non–Reviewed Companies
Comment 2: Treatment of Sales Made Above Normal Value

Comments Relating to Bhansali Bright Bars Pvt. Ltd.

Comment 3: Treatment of DEPB Application Charges
Comment 4: Comment on Verification: Correct Payment Date
Comment 5: Comment on Verification: Correct Gross Unit Price
Comment 6: Inclusion of Implied Interest on Non–Interest Bearing Loans
Comment 7: Calculation of Home Market Imputed Credit Expenses
Comment 8: Treatment of Billing Adjustments

Comments Relating to Venus Wire Industries Pvt. Ltd.

Comment 9: Calculation of Home Market Imputed Credit Expenses

[FR Doc. E7–17749 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

A–489–807

Notice of Preliminary Results of New Shipper Review of the Antidumping Duty Order on Certain Steel Concrete Reinforcing Bars from Turkey

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

SUMMARY: In response to a request by Ege Celik Endustrisi Sanayi ve Ticaret A.S., a producer of subject merchandise, and its affiliated export trading company, Ege Dis Ticaret A.S. (collectively ''Ege Celik''), the Department of Commerce (the Department) is conducting a new shipper review of the antidumping duty order on certain steel concrete reinforcing bars (rebar) from Turkey for the period April 1, 2006, through September 30, 2006. We preliminarily determine that, during the period of review (POR), Ege Celik did not sell the subject merchandise at less than normal value (NV). 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 covered by this review if the importer–specific assessment rate calculated in the final results of this review is above *de minimis* (*i.e.*, at or above 0.50 percent).

Interested parties are invited to comment on these preliminary results. The final results will issued 90 days after the date of issuance of these preliminary results, unless extended.

EFFECTIVE DATE: September 10, 2007.

FOR FURTHER INFORMATION CONTACT: Irina Itkin, 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) 482–0656.

SUPPLEMENTARY INFORMATION:

Background

On October 6, 2006, in accordance with 19 CFR 351.214(c), the Department received a timely request from Ege Celik for a new shipper review of the antidumping duty order on rebar from Turkey. On November 7, 2006, the Department found that the request for review with respect to Ege Celik met all of the regulatory requirements set forth in 19 CFR 351.214(b) and initiated an antidumping duty new shipper review covering the period April 1, 2006, through September 30, 2006. *See Notice of Initiation of New Shipper Antidumping Duty Review: Certain Steel Concrete Reinforcing Bars from Turkey*, 71 FR 66503 (Nov. 15, 2006).

We issued the antidumping duty questionnaire to Ege Celik in November 2006. Ege Celik submitted a response to this questionnaire in December 2006. In January 2007, we issued a supplemental questionnaire to Ege Celik. Ege Celik responded to this supplemental questionnaire in the same month.

Also in January 2007, the domestic interested parties requested that the Department initiate a sales–below-cost investigation of Ege Celik. After analyzing this request, we initiated a sales–below-cost investigation for Ege Celik in February 2007. *See* the Memorandum to James Maeder from The Team entitled, ''Petitioners' Allegation of Sales Below the Cost of Production for Ege Celik Endustrisi Sanayi Ve Ticaret A.S. and Ege Dis Ticaret A.S. (Ege Celik Cost Allegation Memo), dated February 26, 2007.

In February 2007, the domestic interested parties alleged that Ege Celik was engaged in anti–competitive practices in the home and U.S. markets during the POR, as evidenced by a 2005 finding by the Turkish Government Competition Board (Competition Board). As a result, the domestic industry requested that the Department determine that Ege Celik is affiliated with all Turkish rebar producers named in the Competition Board report and rescind the new shipper review for it on the basis of this affiliation finding. In February and March 2007, we received comments from Ege Celik on these allegations, as well as reply comments from the domestic industry. For further discussion, see the ''Turkish Government Competition Board Finding'' section below.

In March 2007, the Department published an extension of the time period for issuing the preliminary results of this review by an additional 120 days, or until September 4, 2007, in accordance with section 751(a)(2)(B)(iv) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.214(i)(2). *See Certain Steel Concrete Reinforcing Bars from Turkey; Notice of Extension of Time Limit for Preliminary Results of Antidumping Duty New Shipper Review*, 72 FR 13747 (Mar. 23, 2007).

Also in March 2007, we issued an additional supplemental questionnaire to Ege Celik. Ege Celik submitted a response to this questionnaire, as well as a response to the cost of production (COP) questionnaire, in April 2007.

In April 2007, the domestic interested parties submitted a second report by the Competition Board, which they allege: 1) demonstrates that several rebar producers/exporters were engaged in close supplier relationships; and 2) should be relied upon by the Department to make a finding that Ege Celik and other rebar producers/exporters are affiliated.

We issued supplemental COP questionnaires in May and June 2007 and received responses in June 2007.

Sales and cost verifications of Ege Celik were conducted in June and July 2007.

Scope of the Order

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

convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Period of Review

The POR is April 1, 2006, through September 30, 2006.

Bona Fide Sale Analysis

For the reasons stated below, we preliminarily find that Ege Celik's reported U.S. sale during the POR is a *bona fide* sale, as required by 19 CFR 351.214(b)(2)(iv)(c), based on the totality of the facts on the record. Specifically, we find that the price reported for Ege Celik's rebar sale was similar to the average unit value of U.S. imports of comparable rebar from Turkey during the POR. We also find that the quantity of the sale was within the range of shipment sizes of comparable goods exported from Turkey during the POR. *See* the Memorandum from Brianne Riker to the File entitled, ''Placing Information from the 2005–2006 Administrative Review on Rebar from Turkey on the Record of the New Shipper Review on Rebar from Turkey for Ege Celik Endustrisi Sanayi ve Ticaret A.S./Ege Dis Ticaret A.S.,'' dated July 13, 2007. Finally, we considered whether the importer involved in this transaction is an actual commercial entity, and we found no reason to doubt the legitimacy of the importing party involved in this new shipper review. *See* the Memorandum to James Maeder from Irina Itkin entitled, ''Analysis of Ege Celik Endustrisi Sanayi ve Ticaret A.S./Ege Dis Ticaret A.S.'s *Bona Fides* As A New Shipper in the New Shipper Review of Certain Steel Concrete Reinforcing Bars from Turkey,'' dated September 4, 2007, for further discussion of our price and quantity analysis.

Therefore, for the reasons mentioned above, the Department preliminarily finds that Ege Celik's sole U.S. sale during the POR was a *bona fide* commercial transaction.

Turkish Government Competition Board Finding

On February 1, 2007, the domestic interested parties submitted a report by the Turkish Government Competition Board regarding the Turkish steel industry. The domestic interested parties argue that this report demonstrates that Ege Celik engaged in anti–competitive behavior prior to and during the POR by colluding with other rebar producers/exporters to manipulate home market and export prices and to suppress costs. The domestic interested parties assert that the Department should collapse all Turkish rebar producers into a single entity and find that Ege Celik does not qualify as a new shipper because of affiliation with other rebar producers/exporters. The domestic interested parties further contend that the Department should, as a result, rescind the initiation of the new shipper review for Ege Celik. However, in the event that the Department continues to conduct this new shipper review, the domestic interested parties argue that the Department should find that a particular market situation, a fictitious market, or sales outside the course of ordinary trade exist and not use home market sales as a basis for NV.

In addition, on April 9, 2007, the domestic interested parties submitted a second report by the Competition Board, which they allege: 1) demonstrates that several rebar producers/exporters were engaged in close supplier relationships; and 2) should be relied upon by the Department to make a finding that Ege Celik and other rebar producers/exporters are affiliated.

Ege Celik has objected to the Department's acceptance of these submissions because: 1) it is inappropriate to consider antitrust findings in the context of an antidumping duty proceeding; 2) the Competition Board's ruling is not final, as it is under appeal in the Turkish judicial system; and 3) the Competition Board's decision and evidence should not be considered in the current POR because it relates to a prior period of time. Ege Celik did not submit arguments regarding the domestic interested parties' April 9, 2007, submission.

We have not relied on the evidence or conclusions in the Board's report as the basis for any findings in this review. Rather, we have investigated whether the facts during the POR would cause us to dismiss reported home market prices or costs within the confines of U.S. antidumping duty law and regulations. Based on Ege Celik's responses to our questions on this topic and our verification of these responses, as well as our findings with respect to the content, and context, of meetings held by the Turkish Iron and Steel Producers' Association during the POR, we have preliminarily concluded that: 1) Ege Celik is not affiliated with other producers of rebar and is therefore entitled to this new shipper review; and 2) there is no evidence that Ege Celik's home market sales prices were not competitively set during the POR, and as such these prices are useable for purposes of our margin analysis. For further discussion, see the August 31, 2007, Memorandum from Shawn Thompson, Irina Itkin, and Brianne Riker to David M. Spooner, entitled ''Preliminary Finding on Issues Related to the Turkish Government Competition Board's Reports in Certain Steel Concrete Reinforcing Bars from Turkey'' and the July 9, 2007, Memorandum to the File from Irina Itkin and Nichole Zink entitled ''Verification of the Sales Response of Ege Celik Endustrisi Sanayi Ve Ticaret A.S./Ege Dis Ticaret A.S. (Ege Celik) in the Antidumping Duty New Shipper Review of Certain Concrete Steel Reinforcing Bars from Turkey.''

Comparisons to Normal Value

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

Product Comparisons

In accordance with section 771(16) of the Act, we first attempted to compare products produced by Ege Celik and sold in the U.S. and home markets that were identical with respect to the following characteristics: form, grade, size, and industry standard specification. Where there were no home market sales of foreign like product that were identical in these respects to the merchandise sold in the United States, we compared U.S. products with the most similar merchandise sold in the home market based on the characteristics listed above, in that order of priority.

Export Price

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

Regarding U.S. date of sale, Ege Celik argued that we should use contract date

as the date of sale for its U.S. sale. The Department's regulations at 19 CFR 351.401(i) state that the Department will normally use the date of invoice as the date of sale, unless a different date better reflects the date on which the material terms of sale are established. We have analyzed the data on the record and preliminarily find that the material terms of sale were set at the contract date, given that the terms did not change prior to invoicing. Further, because this is the first time that the Department is conducting a review of Ege Celik, there is no prior evidence on the record that the terms of sale were changeable after the contract date. Therefore, in accordance with our practice, we preliminarily find that the appropriate U.S. date of sale is the contract date. *See Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review*, 71 FR 26455, 26458 (May 5, 2006) (*04–05 Preliminary Results*), unchanged in the final results.

We based EP on the packed price to the first unaffiliated purchaser in the United States. We made deductions from the starting price for foreign inland freight expenses, foreign brokerage and handling expenses, inspection fees, ocean freight expenses (offset by freight commission revenue), U.S. customs duties, U.S. brokerage and handling expenses, and customs bond fees, in accordance with section 772(c)(2)(A) of the Act. Additionally, we added to the starting price an amount for duty drawback pursuant to section 772(c)(1)(B) of the Act.

Normal Value

A. Home Market Viability and Selection of Comparison Markets

In order to determine whether there is a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (*i.e.*, the aggregate volume of home market sales of the foreign like product is five percent or more of the aggregate volume of U.S. sales), we compared the volume of Ege Celik's home market sales of the foreign like product to the volume of its U.S. sale of subject merchandise, in accordance with section 773(a)(1)(C) of the Act. Based on this comparison, we determined that Ege Celik had a viable home market during the POR. Consequently, we based NV on home market sales.

In accordance with our practice, we excluded home market sales of non–prime merchandise made by Ege Celik during the POR from our preliminary analysis based on the limited quantity of such sales in the home market and the fact that no such sales were made to the United States during the POR. *See*, *e.g.*, *04–05 Preliminary Results*, 71 FR at 26459, unchanged in the final results; *Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Notice of Intent To Revoke in Part*, 70 FR 23990, 23993 (May 6, 2005), unchanged in the final results; *Certain Steel Concrete Reinforcing Bars From Turkey; Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review and Notice of Intent Not To Revoke in Part*, 69 FR 25066, 25066 (May 5, 2004), unchanged in the final results; and *Certain Steel Concrete Reinforcing Bars from Turkey; Preliminary Results of Antidumping Duty Administrative Review and Notice of Intent Not to Revoke in Part*, 68 FR 23972 (May 6, 2003), unchanged in the final results.

B. Cost of Production Analysis

Pursuant to section 773(b)(2)(A)(i) of the Act, there were reasonable grounds to believe or suspect that Ege Celik made home market sales at prices below its COP in this review because of information contained in the cost allegation properly filed by the domestic interested parties. As a result, the Department initiated an investigation to determine whether Ege Celik made home market sales during the POR at prices below its COP. *See* the ''Ege Celik Cost Allegation Memo.''

1. Calculation of COP

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

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

1) We disallowed an adjustment to the total cost of manufacturing for packing materials that had been returned to the warehouse.
2) We added an amount for duty drawback to the total cost of manufacturing.
3) We adjusted the numerator of the G&A expense calculation to include the revenue from the sale of fixed assets.
4) We adjusted the denominator of the G&A and financial expense calculations to exclude packing expenses which had been reported in the home market and U.S. sales listings.
5) We revised the financial expense ratio based on the fiscal year 2006 audited consolidated financial statements.

For further discussion, see the Memorandum from Trinette Boyd to Neal Halper entitled, ''Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results in the New Shipper Review—Ege Celik Endustrisi Sanayi ve Ticaret A.S./Ege Dis Ticaret A.S.,'' dated September 4, 2007.

2. Test of Home Market Sales Prices

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

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

3. Results of the COP Test

Pursuant to section 773(b)(2)(C)(i) of the Act, where less than 20 percent of Ege Celik'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 Ege Celik's sales of a given product were at prices below the COP, we determined that sales of that model were made in ''substantial quantities'' within an extended period of time (as defined in section 773(b)(2)(B) of the Act), in accordance with section 773(b)(2)(C)(i) of the Act. In such cases, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this new shipper review, we disregarded these below–cost sales for Ege Celik and used the remaining sales as the basis for determining NV, in accordance with section 773(a)(1) of the Act.

C. Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as EP. The NV LOT is that of the starting–price sales in the comparison market or, when NV is based on constructed value, that of the sales from which we derive selling expenses, G&A expenses, and profit. For EP, the U.S. LOT is also the level of the starting–price sale, which is usually from the exporter to the unaffiliated U.S. customer.

To determine whether NV sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison–market sales are at a different LOT and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison–market sales at the LOT of the export transaction, we make an LOT adjustment under section 773(a)(7)(A) of the Act.

Ege Celik claimed that it sold rebar at a single LOT in its home and U.S. markets. Specifically, Ege Celik reported that it only made sales to one customer category (*i.e.*, trading companies) through one channel of distribution in the home market and identical selling functions were performed for all sales. After analyzing the data on the record with respect to these functions, we find that the Ege Celik made all sales at a single marketing stage (*i.e.*, one LOT) in the home market. Further, because Ege Celik only reported one U.S. sale during the POR, we find that there is a single marketing stage (*i.e.*, one LOT) in the U.S. market.

Although Ege Celik provided certain additional services related to freight and brokerage and handling for its U.S. sale and not home market sales, we did not find these differences to be material selling function distinctions significant enough to warrant a separate LOT. Therefore, we find that the home market sales and U.S. sales were made at the same LOT. Accordingly, we determined that no LOT adjustment is warranted.

D. Calculation of Normal Value

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

Where appropriate, we made an adjustment to NV to account for differences in physical characteristics of the merchandise, in accordance with section 773(a)(6)(C)(ii) of the Act and 19 CFR 351.411(a). We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise. *See* 19 CFR 351.411(b).

Currency Conversion

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

Preliminary Results of New Shipper Review

As a result of our review, we preliminarily determine that the following percentage margin exists for Ege Celik for the period April 1, 2006, through September 30, 2006:

Manufacturer/Producer/Exporter	Margin Percentage
Ege Celik Endustrisi Sanayi ve Ticaret A.S./Ege Dis Ticaret A.S.	0.00

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 5 days after the deadline for filing the case briefs. 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 B–099, 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 review, including the results of its analysis of issues raised in any written briefs, within 90 days of publication of these preliminary results.

Assessment Rate

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

Pursuant to 19 CFR 351.212(b)(1), because we have the reported entered value of Ege Celik's U.S. sale, we have calculated an importer–specific assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sale to the total entered value of that sale. We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review if the 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 (68 FR 23954). This clarification applies to entries of subject merchandise during the POR produced by companies included in these preliminary results of review for which the reviewed companies did not know their merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate unreviewed entries at the All–Others rate if there is no rate for the intermediate company(ies) involved in the transaction. For a full discussion of this clarification, see *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of the new shipper review, as provided by section 751(a)(2)(C) of the Act: 1) the cash deposit rate for Ege Celik (*i.e.*, for subject merchandise both manufactured and exported by Ege Celik) 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 these reviews or the original less–than-fair–value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and 4) the cash deposit rate for all other manufacturers or exporters will continue to be 16.06 percent, the All–Others rate established in the LTFV investigation. These requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This new shipper review is issued and published in accordance with sections 751(a)(2)(B)(iv) and 777(i)(1) of the Act, as well as 19 CFR 351.214(i).

Dated: September 4, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–17758 Filed 9–7–07; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

(C–580–818)

Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea: Preliminary Results of Countervailing 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 countervailing duty (CVD) order on corrosion–resistant carbon steel flat products from the Republic of Korea (Korea) for the period of review (POR) January 1, 2005, through December 31, 2005. For information on the net subsidy for each of the reviewed companies, see the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (See the ''Public Comment'' section of this notice).

EFFECTIVE DATE: September 10, 2007.

FOR FURTHER INFORMATION CONTACT: Robert Copyak or Gayle Longest, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–2209 or (202) 482–3338, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 1993, the Department published in the **Federal Register** the CVD order on corrosion–resistant carbon steel flat products from Korea. *See Countervailing Duty Orders and Amendments to Final Affirmative Countervailing Duty Determinations: Certain Steel Products from Korea*, 58 FR 43752 (August 17, 1993). On August 1, 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 43441 (August 1, 2006). On August 31, 2006, we received a timely request for review from Pohang Iron and Steel Co. Ltd. (POSCO) and Dongbu Steel Co., Ltd. (Dongbu). On September 29, 2006, the Department published a notice of initiation of the administrative review of the CVD order on corrosion–resistant carbon steel flat products from Korea covering the POR January 1, 2005, through December 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006). On October 16, 2006, the Department sent its initial questionnaire to POSCO, Dongbu, and the Government of Korea (GOK). On December 21, 2006, the Department received questionnaire responses from POSCO, Pohang Steel Co., Ltd. (POCOS, a production affiliate of POSCO), POSCO Steel Service & Sales Co., Ltd. (POSTEEL, a trading company for POSCO),[1] Dongbu, and the GOK. On March 30, 2007, we issued supplemental questionnaires to POSCO and the GOK. On April 16, 2007, we received the responses to these supplemental questionnaires.

On May 9, 2007, the Department published in the **Federal Register** a notice of extension of the time period for issuing the preliminary results. See Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review, 72 FR 26338 (May 9, 2007).

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The companies subject to this review are POSCO (and its affiliates POCOS and POSTEEL) and Dongbu.

Affiliated Companies

In the present administrative review, record evidence indicates that POCOS is a majority–owned production affiliate of POSCO. Under 19 CFR 351.525(b)(6)(iii), if the firm that received a subsidy is a holding company, including a parent company with its own operations, the Department will attribute the subsidy to the consolidated sales of the holding company and its subsidiaries. Thus, we attributed subsidies received by POCOS to POSCO and its subsidiaries, net of intra–company sales. Dongbu reported that it is the only member of the Dongbu group in Korea that was involved with the sale of subject merchandise to the United States.

Scope of Order

Products covered by this order are certain corrosion–resistant carbon steel flat products from Korea. These products include flat–rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion–resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron–

[1] In these preliminary results, unless otherwise stated, we use POSCO to collectively refer to POSCO, POCOS, and POSTEEL.

based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness. The merchandise subject to this order is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7210.30.0000, 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.61.0000, 7210.69.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.20.0000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.9030, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.20.1500, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.30.15.0000, 7217.32.5000, 7217.33.5000, 7217.39.1000, 7217.39.5000, 7217.90.1000 and 7217.90.5000. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Average Useful Life

Under 19 CFR 351.524(d)(2), we will presume the allocation period for non–recurring subsidies to be the average useful life (AUL) of renewable physical assets for the industry concerned as listed in the Internal Revenue Service's (IRS) 1997 Class Life Asset Depreciation Range System, as updated by the Department of the Treasury. The presumption will apply unless a party claims and establishes that the IRS tables do not reasonably reflect the company–specific AUL or the country–wide AUL for the industry under examination and that the difference between the company–specific and/or country–wide AUL and the AUL from the IRS table is significant. According to the IRS Tables, the AUL of the steel industry is 15 years. No interested party challenged the 15-year AUL derived from the IRS tables. Thus, in this review, we have allocated, where applicable, all of the non–recurring subsidies provided to the producers/exporters of subject merchandise over a 15-year AUL.

Subsidies Valuation Information

A.Benchmarks for Short–Term Financing

For those programs requiring the application of a won–denominated, short–term interest rate benchmark, in accordance with 19 CFR 351.505(a)(2)(iv), we used as our benchmark an annual average company–specific weighted–average interest rate for commercial won–denominated loans outstanding during the POR. Where no such benchmark instruments are available, we used national average lending rates for the POR, as reported in the International Monetary Fund's (IMF) *International Financial Statistics Yearbook*. This approach is in accordance with 19 CFR 351.505(a)(3)(ii) and the Department's practice. See, e.g., Final *Affirmative Countervailing Duty Determination: Structural Steel Beams From the Republic of Korea*, 65 FR 41051 (July 3, 2000) (*H Beams Investigation*), and the accompanying Issues and Decision Memorandum (*H Beams Decision Memorandum*), at ''Benchmarks for Short–Term Financing.''

B. Benchmark for Long–Term Loans Issued Through 2005

During the POR, POSCO and Dongbu had outstanding long–term won–denominated and foreign–currency denominated loans from government–owned banks and Korean commercial banks. Based on our findings on this issue in prior investigations and administrative reviews, we are using the following benchmarks to calculate the subsidies attributable to respondents' countervailable long–term loans obtained though 2005:

(1) For countervailable, foreign–currency denominated loans, pursuant to 19 CFR 351.505(a)(2), and consistent with our past practice, our preference is to use the company–specific, weighted–average foreign currency–denominated interest rates on the company's loans from foreign bank branches in Korea, foreign securities, and direct foreign loans outstanding during the POR. *See, e.g., Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30636, 30640 (June 8, 1999). Where no such benchmark instruments are available, and consistent with 19 CFR 351.505(a)(3)(ii), as well as our practice, we relied on the national average lending rates as reported by the IMF's *International Financial Statistics Yearbook*. *See, e.g., Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 69 FR 2113 (January 14, 2004), and the accompanying Issues and Decision Memorandum, at ''Subsidies Valuation Information; B. Benchmarks for Long–Term Loans and Discount Rates.''

(2) For countervailable, won–denominated, long–term loans, our practice is to use the company–specific corporate bond rate on the company's public and private bonds, as we determined that the GOK did not control the Korean domestic bond market after 1991 and that domestic bonds may serve as an appropriate benchmark interest rate. *See, e.g., Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 64 FR 15530, 15531 (March 31, 1999) (*Plate in Coils Investigation*); *see also* 19 CFR 351.505(a)(2)(ii). Where no such benchmark instruments are available, we used the national average of the yields on three-year corporate bonds, as reported by the Bank of Korea (BOK), consistent with 19 CFR 351.505(a)(3)(ii). We note that the use of the three-year corporate bond rate from the BOK follows the approach taken in the *Plate in Coils Investigation*, in which we determined that, absent company–specific interest rate information, the corporate bond rate is the best indicator of a market rate for won–denominated long–term loans in Korea. *See Plate in Coils Investigation*, 64 FR at 15531; *see also* 19 CFR 351.505(a)(3)(ii).

In accordance with 19 CFR 351.505(a)(2)(i), our benchmarks take into consideration the structure of the government–provided loans. For countervailable fixed–rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), we used benchmark rates issued in the same year that the government loans were issued. For countervailable variable–rate loans outstanding during the POR, pursuant to 19 CFR 351.505(a)(5)(i), our preference is to use the interest rates of variable–rate lending instruments issued during the year in which the government loans were issued. Where such benchmark instruments are unavailable, we used interest rates from debt instruments issued during the POR as our benchmark, as such rates better reflect a variable interest rate that would be in effect during the POR. This approach is in accordance with the Department's practice. *See, e.g., Final Results and Partial Rescission of Countervailing Duty Administrative Review: Stainless*

Steel Sheet and Strip From the Republic of Korea, 68 FR 13267 (March 19, 2003), and accompanying Issues and Decision Memorandum, at Comment 8; *see also* 19 CFR 351.505(a)(5)(ii).

C. Benchmark Discount Rates

Certain programs examined in this administrative review require the allocation of won–denominated benefits over time. Thus, we have employed the allocation methodology described under 19 CFR 351.524(d). Pursuant to 19 CFR 351.524(d)(3)(i), we based our discount rate on data for the year in which the government agreed to provide the subsidy. Under 19 CFR 351.524(d)(3)(i)(A), our preference is to use the cost of long–term, fixed–rate loans of the firm in question.[2] Thus, where available, we used company–specific corporate bond rates on public and private bonds. *See, e.g., Plate in Coils Investigation*, 64 FR at 15531. Where no such benchmark instruments are available, pursuant to 19 CFR 351.524(d)(3)(i)(B), we used the national average of the yields on three-year corporate bonds, as reported by the BOK, because we have determined that the GOK did not control the Korean domestic bond market after 1991.

I. Program Preliminarily Determined to Confer Subsidies

A. The GOK's Direction of Credit

1. Loans Received Through 2005

In the most recently completed CVD proceeding involving Korea, the Department reaffirmed earlier determinations that the GOK controlled and directed lending to Korean steel producers through 2005. *See Final Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from Republic of Korea*, 72 FR 38565 (July 13, 2007) (*2005 CTL Plate Final Results*), and accompanying Issues and Decision Memorandum, at ''GOK's Direction of Credit'' (*2005 CTL Plate Decision Memorandum*). In addition, in that review, the Department noted that neither the respondent nor the GOK provided any new information that would warrant a change in the Department's determination. Finding that the GOK did not act to the best of its ability, the Department employed an adverse inference and determined that the GOK continued its direction–of-credit policies with respect to the Korean steel industry for the period 2002 through 2005. *Id.*

During the POR, POSCO and Dongbu had outstanding loans that were received prior to and/or during the 2005 period. As in the prior proceedings, we asked the GOK for information pertaining to the GOK's direction–of-credit policies through 2005. The GOK did not provide any new information that would warrant a departure from these prior findings, stating instead that: ''The Department has consistently found that long–term loans received by the steel industry were the result of GOK direction, despite the GOK's repeated objections and demonstrations to the contrary. While the GOK strongly disagrees with the Department's position, the legal costs to further contest this issue in the current review overshadow any possible benefit to the participating Korean companies.''

See the GOK's Questionnaire Response, at 8 (December 21, 2006). Because the GOK withheld the requested information on its lending policies, the Department does not have the necessary information on the record to determine whether the GOK has continued its direction–of-credit policies with respect to the Korean steel industry through 2005; therefore, the Department must base its determination on facts otherwise available. See Section 776(a)(2)(A) of the Tariff Act of 1930, as amended (the Act).

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination in the investigation, a previous administrative review, or other information placed on the record. For the reasons discussed below, we determine that, in accordance with sections 776(a)(2) and 776(b) of the Act, the use of AFA is appropriate for the final results for the determination of direction of credit for loans received through 2005.

In this case, the GOK refused to supply requested information that was in its possession, even though the GOK had provided similar information in prior proceedings. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 64 FR 73176, 73178–180 (December 29, 1999) (*CTL Plate Investigation*). Therefore, consistent with section 776(a)(2)(A) and (B) of the Act, we find that the GOK did not act to the best of its ability in this case and, therefore, we are employing an adverse inference in selecting from among the facts otherwise available. As AFA, we find that the GOK's direction–of-credit policies for the steel industry continued through 2005. Accordingly, the GOK's direction–of-credit policies with respect to the Korean steel industry provide a financial contribution in the form of the provision of loans pursuant to section 771(5)(D)(i) of the Act, confer a benefit in the amount of the difference between the amount that firm paid for the countervailable loan and the amount the firm would pay on a comparable commercial loan within the meaning of section 771(5)(E)(ii) of the Act, and are specific pursuant to section 771(5A)(D)(iii) of the Act because they are limited to the steel industry. Therefore, we find that lending to Korean steel producers from domestic banks and government–owned banks through 2005 is countervailable. Thus, any loans received by Korean steel producers through 2005 from domestic banks and government–owned banks that were outstanding during the POR are countervailable, to the extent that the interest amount paid on the loan is less than what would have been paid on a comparable commercial loan. The Department's decision to rely on adverse inferences when lacking a response from the GOK regarding the direction–of-credit issue, as it applies to the Korean steel industry, is also in accordance with its practice. *See 2005 CTL Plate Decision Memorandum* at ''GOK's Direction of Credit.''

2. Calculation of the Benefit and Net Subsidy Rate Under the Direction of Credit Program

In accordance with 19 CFR 351.505(c)(2) and (4), we calculated the benefit for each fixed- and variable–rate loan received from GOK–owned or -controlled banks to be the difference between the actual amount of interest paid on the directed loan during the POR and the amount of interest that would have been paid during the POR at the benchmark interest rate. We conducted our benefit calculations using the benchmark interest rates described in the ''Subsidies Valuation Information'' section above. For foreign currency–denominated loans, we converted the benefits into Korean won using exchange rates obtained from the BOK. We then summed the benefits from each company's long–term fixed–rate and variable–rate won–denominated loans.

To calculate the net subsidy rate, we divided the companies' total benefits by

[2] Pursuant to 19 CFR 351.505(a)(2)(ii), a ''commercial loan'' is defined as a loan taken out by the firm from a commercial lending institution or a debt instrument issued by the firm in a commercial market. Because we have determined that the GOK controlled and directed lending, we are unable to use the cost of loans for discount rate purposes. However, as explained above, we determined that the GOK did not control the Korean domestic bond market after 1991.

their respective total f.o.b. sales values during the POR, as this program is not tied to exports or a particular product. In calculating the net subsidy rate for POSCO, we removed from the denominator sales made between affiliated parties.[3] On this basis, we preliminarily determine the net subsidy rate under the direction of credit program to be less than 0.005 percent *ad valorem* for POSCO and 0.05 percent *ad valorem* for Dongbu.

B. Asset Revaluation Under Article 56(2) of the Tax Reduction and Exemption Control Act (TERCL)

Under Article 56(2) of the TERCL, the GOK permitted companies that made an initial public offering between January 1, 1987, and December 31, 1990, to revalue their assets at a rate higher than the 25 percent required of most other companies under the Asset Revaluation Act. The Department has previously found this program to be countervailable. For example, in the *CTL Plate Investigation*, the Department determined that this program was de facto specific under section 771(5A)(D)(iii) of the Act because the actual recipients of the subsidy were limited in number and the basic metal industry was a dominant user of this program. *See CTL Plate Investigation*, 64 FR at 73182–183. We also determined that a financial contribution was provided in the form of tax revenue foregone pursuant to section 771(5)(D)(ii) of the Act. Id. The Department further determined that a benefit was conferred within the meaning of section 771(5)(E) of the Act on those companies that were able to revalue their assets under TERCL Article 56(2) because the revaluation resulted in participants paying fewer taxes than they would otherwise pay absent the program. *Id*. No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program.

The benefit from this program is the difference that the revaluation of depreciable assets has on a company's tax liability each year. Evidence on the record indicates that, in 1989, POSCO made an asset revaluation that increased its depreciation expense. Dongbu reported that it did not use this program during the POR. To calculate the benefit to POSCO, we took the additional depreciation listed in the tax return filed during the POR, which resulted from the company's asset revaluation, and multiplied that amount by the tax rate applicable to that tax return. We then divided the resulting benefit by POSCO's total f.o.b. sales. On this basis, we preliminarily determine the net countervailable subsidy to be 0.02 percent *ad valorem* for POSCO. This program was not used by Dongbu.

C. Research and Development (R&D) Grants Under the Industrial Development Act (IDA)

The GOK, through the Ministry of Commerce, Industry, and Energy (MOCIE), provides R&D grants to support numerous projects pursuant to the IDA, including technology for core materials, components, engineering systems, and resource technology. The IDA is designed to foster the development of efficient technology for industrial development. To participate in this program a company may: (1) perform its own R&D project, (2) participate through the Korea New Iron and Steel Technology Research Association (KNISTRA), which is an association of steel companies established for the development of new iron and steel technology, and/or (3) participate in another company's R&D project and share R&D costs, along with funds received from the GOK. To be eligible to participate in this program, the applicant must meet the qualifications set forth in the basic plan and must perform R&D as set forth under the Notice of Industrial Basic Technology Development. If the R&D project is not successful, the company must repay the full amount.

In the *H Beams Investigation*, the Department determined that through KNISTRA the Korean steel industry receives funding specific to the steel industry. Therefore, given the nature of KNISTRA, the Department found projects under KNISTRA to be specific. *See Preliminary Negative Countervailing Duty Determination and Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination: Structural Steel Beams From the Republic of Korea*, 64 FR 69731, 69740 (December 14, 1999) (unchanged in final results), *H Beams Decision Memorandum*, at ''R&D Grants Under The Korea New Iron & Steel Technology Research Association (KNISTRA).'' Further, we found that the grants constituted a financial contribution under section 771(5)(D)(i) of the Act in the form of a grant, and bestowed a benefit under section 771(5)(E) of the Act in the amount of the grant. *Id*. No new factual information or evidence of changed circumstances has been provided to the Department with respect to this program. Therefore, we preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act and constitutes a financial contribution and confers a benefit under sections 771(5)(D)(i) and 771(5)(E) of the Act, respectively.

Dongbu reported that it did not use the program during the POR. POSCO reported receiving grants through KNISTRA during the POR; however, it claims that the research grants it received under the program are tied to non–subject merchandise. Upon review of the information submitted by the GOK and POSCO, we preliminarily determine that certain grants are tied to non–subject merchandise, and thus, we did not include these grants in our benefit calculations. See the GOK's December 21, 2006, Questionnaire Response, at Exhibit G–6. However, POSCO also reported receiving certain other grants related to a production process that can be used for an input into the production of subject merchandise. *See* POSCO's December 21, 2006, Questionnaire Response, at Exhibit 6. *See Preliminary Results of Countervailing Duty Administrative Review: Corrosion–Resistant Carbon Steel Flat Products from the Republic of Korea*, 71 FR 53413, 53417 (September 11, 2006) (*Preliminary Results of CORE from Korea (2004)*) (unchanged final results, 71 FR 119 (January 3, 2007)). Under 19 CFR 351.525(b)(5), if a subsidy is tied to the production or sale of a particular product, the Department will attribute the subsidy only to that product. But, under sub–paragraph (ii), if a subsidy is tied to the production of an input product, then the Department will attribute the subsidy to both the input and downstream products produced by a corporation, where the input is primarily dedicated to downstream products. Accordingly, we have attributed the grant related to a production process that can be used as an input into the production of subject merchandise to POSCO's total sales.

To determine the benefit from the grants that POSCO received through KNISTRA, we calculated the GOK's contribution for each R&D project. Next, in accordance with 19 CFR 351.524(b)(2), we determined whether to allocate the non–recurring benefit from the grants over POSCO's AUL by dividing the approved amount by POSCO's total sales in the year of approval. Because the approved amounts were less than 0.5 percent of POSCO's total sales in the year of receipt, we expensed the grants to the year of receipt. Next, to calculate the net subsidy rate, we divided the portion of the benefit allocated to the POR by

[3] For POSCO, we also removed intra-company sales from the denominators of the net subsidy rate calculations of the other programs found countervailable in these preliminary results. This step was not necessary for Dongbu.

POSCO's total f.o.b. sales during the POR. On this basis, we preliminarily determine POSCO's net subsidy rate under this program to be 0.01 percent *ad valorem*.

D. Exemption of VAT on Imports of Anthracite Coal

Under Article 106 of Restriction of Special Taxation Act (RSTA), imports of anthracite coal are exempt from the value added tax (VAT). In the *Cold–Rolled Investigation*, we determined that the program is de jure specific to the steel industry under section 771(5A)(D)(i) of the Act, as the items allowed to be imported without paying VAT are limited to the production of steel products. *See Final Affirmative Countervailing Duty Determination: Certain Cold–Rolled Carbon Steel Flat Products From the Republic of Korea*, 67 FR 62102 (October 3, 2002) (*Cold–Rolled Investigation*), and accompanying Issues and Decision Memorandum (*Cold–Rolled Decision Memorandum*), at ''Exemption of VAT on Imports of Anthracite Coal.'' We also determined that the VAT exemptions under the program constitute a financial contribution under section 771(5)(D)(ii) of the Act, as the GOK is not collecting revenue otherwise due, and that the exemptions confer a benefit under section 771(5)(E) of the Act equal to the amount of the VAT that would have otherwise been paid if not for the exemption. No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Therefore, we preliminarily determine that this program is *de jure* specific within the meaning of section 771(5A)(D)(i) of the Act because it is limited to the steel industry, constitutes a financial contribution in the form of foregone revenue under section 771(5)(D)(ii) of the Act, and confers a benefit in the amount of the revenue foregone within the meaning of 771(5)(E) of the Act.

Dongbu reported that it did not use the program during the POR. POSCO imported anthracite coal during the POR and, therefore, received a benefit in the amount of the VAT that it would have otherwise paid if not for the exemption. To determine POSCO's benefit from the VAT exemption on these imports, we calculated the amount of VAT that would have been due absent the program on the total value of anthracite coal POSCO imported during the POR. We then divided the amount of this tax benefit by POSCO's total f.o.b. sales. Based on this methodology, we preliminarily determine that POSCO received a countervailable subsidy of 0.05 percent *ad valorem*.

E. GOK Infrastructure Investment at Kwangyang Bay Through 1991

In *Steel Products from Korea*, the Department investigated the GOK's infrastructure investments at Kwangyang Bay over the period 1983–1991. We determined that the GOK's provision of infrastructure at Kwangyang Bay was countervailable because POSCO was the predominant user of the GOK's investments. *See Final Affirmative Countervailing Duty Determination and Final Negative Critical Circumstance Determinations: Certain Steel Products from Korea*, 58 FR 37338, 37346 (July 9, 1993) (*Steel Products from Korea*). Dongbu did not use this program. Consistent with section 771(5A)(D)(iii) of the Act, the Department has held that a countervailable subsidy exists when benefits under a program are provided, or are required to be provided, in law or in fact, to a specific enterprise or industry or group of enterprises or industries. *See, e.g., Steel Products from Korea*, 58 FR at 37346; and *Preliminary Results of CORE from Korea (2004)*, 71 FR 53418. No new factual information or evidence of changed circumstances has been provided to the Department with respect to the GOK's infrastructure investments at Kwangyang Bay over the period 1983–1991. Therefore, we preliminarily determine the infrastructure investments the GOK provided to POSCO are *de facto* specific within the meaning of section 771(5A)(D)(iii)(II) of the Act. Further, we preliminarily determine that the infrastructure investments constitute a financial contribution in the form of a grant, pursuant to section 771(5)(D)(i) of the Act, and confer a benefit in the amount of the grant within the meaning of section 771(5)(E) of the Act.

To determine the benefit from the GOK's investments to POSCO during the POR, we utilized the approach adopted in prior proceedings. *See, e.g., CTL Plate Investigation*, 64 FR at 73180. In measuring the benefit from this program, we treated the GOK's costs of constructing the infrastructure at Kwangyang Bay as untied, non–recurring grants in each year in which the costs were incurred. To calculate the benefit conferred during the POR, we applied the Department's standard grant methodology and allocated the GOK's infrastructure investments over a 15-year allocation period. See the ''Average Useful Life'' section, above. Using the 15-year allocation period, POSCO is still receiving benefits under this program from the GOK investments made during the year 1991. To calculate the benefit from these grants, we used as our discount rate the rate describe above in the ''Subsidies Valuation Information'' section. We then divided this total benefit attributable to the POR by POSCO's total f.o.b. sales for the POR. On this basis, we preliminarily determine POSCO's net countervailable subsidy rate to be 0.01 percent *ad valorem* for the POR.

F. Other Subsidies Related to Operations at Asan Bay: Provision of Land and Exemption of Port Fees Under Harbor Act

1.Provision of Land

As explained in the *Cold–Rolled Investigation*, the GOK's overall development plan is published every 10 years and describes the nationwide land development goals and plans for the balanced development of the country. Under these plans, the Ministry of Construction and Transportation (MOCAT) prepares and updates its Asan Bay Area Broad Development Plan. *See Cold–Rolled Decision Memorandum*, at ''Provision of Land at Asan Bay.'' The Korea Land Development Corporation (Koland) is a government investment corporation that is responsible for purchasing, developing, and selling land in the industrial sites. *Id.*

In the *Cold–Rolled Investigation*, we verified that the GOK, in setting the price per square meter for land at the Kodai industrial estate, removed the 10 percent profit component from the price charged to Dongbu. Id. In the *Cold–Rolled Investigation*, we further explained that companies purchasing land at Asan Bay must make payments on the purchase and development of the land before the final settlement. However, in the case of Dongbu, we found that the GOK provided an adjustment to Dongbu's final payment to account for ''interest earned'' by the company for the pre–payments. *Id.* POSCO reported that it did not use this program.

In the *Cold–Rolled Investigation*, we determined that the price discount and the adjustment of Dongbu's final payment to account for ''interest earned'' by the company on its pre–payments were countervailable subsidies. Specifically, the Department determined that they were specific under section 771(5A)(D)(iii)(I) of the Act, as they were limited to Dongbu. *Id.* Further, the Department found the price discount and the price adjustment for ''interest earned'' constituted financial contributions in the form of grants under section 771(5)(D)(i) of the Act and conferred benefits in the amount of grants within the meaning of section 771(5)(E) of the Act. *Id.* No new information, evidence of changed

circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Therefore, we preliminarily determine that this program is de facto specific within the meaning of section 771(5A)(D)(iii)(I) of the Act because it is limited to Dongbu, constitutes a financial contribution in the form of grants under sections 771(5)(D)(i), and confers a benefit in the amount of the price discount and the price adjustment within the meaning of 771(5)(E) of the Act.

Consistent with the *Cold–Rolled Investigation*, we have treated the land price discount and the interest earned refund as non–recurring subsidies. Id. In accordance with 19 CFR 351.524(b)(2), because the grant amounts were more than 0.5 percent of the company's total sales in the year of receipt, we applied the Department's standard grant methodology, as described under 19 CFR 351.524(d)(1), and allocated the subsidies over a 15-year allocation period. See the ''Average Useful Life'' section, above. To calculate the benefit from these grants, we used as our discount rate the rates describe above in the ''Subsidies Valuation Information'' section. We then summed the benefits received by Dongbu during the POR. We calculated the net subsidy rate by dividing the total benefit attributable to the POR by Dongbu's total f.o.b. sales for the POR. On this basis, we determine a net countervailable subsidy rate for Dongbu of 0.19 percent *ad valorem* for the POR.

2. Exemption of Port Fees Under Harbor Act

Under the Harbor Act, companies are allowed to construct infrastructure facilities at Korean ports; however, these facilities must be deeded back to the government. Because the ownership of these facilities reverts to the government, the government compensates private parties for the construction of these infrastructure facilities. Because a company must transfer to the government its infrastructure investment, under the Harbor Act, the GOK grants the company free usage of the facility and the right to collect fees from other users of the facility for a limited period of time. Once a company has recovered its cost of constructing the infrastructure, the company must pay the same usage fees as other users of the infrastructure.

In the *Cold–Rolled Investigation*, the Department found that Dongbu received free use of harbor facilities at Asan Bay based upon both its construction of a port facility as well as a road that the company built from its plant to its port. *See Cold–Rolled Decision Memorandum*, at ''Dongbu's Excessive Exemptions under the Harbor Act.'' The Department also determined that Dongbu received an exemption of harbor fees for a period of almost 70 years under this program. *See id*. In the *Cold–Rolled Investigation*, the Department found the exemption from the fees to be a countervailable subsidy. No new information of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Thus, we preliminarily determine that the program is countervailable and is specific under section 771(5A)(D)(iii)(I) of the Act because the excessive exemption period of 70 years is limited to Dongbu. Moreover, we preliminarily determine that the GOK is foregoing revenue that it would otherwise collect by allowing Dongbu to be exempt from port charges for up to 70 years and, thus, the program constitutes a financial contribution within the meaning of section 771(5)(D)(ii) of the Act. Further, we preliminarily determine that the exemptions confer a benefit under section 771(5)(E) of the Act.

In the *Cold–Rolled Investigation*, the Department treated the program as a recurring subsidy and determined that the benefit is equal to the average yearly amount of harbor fee exemptions provided to Dongbu. *Id*. For purposes of these preliminary results, we have employed the same benefit calculation. To calculate the net subsidy rate, we divided the average yearly amount of exemptions by Dongbu's total f.o.b. sales for the POR. On this basis, we preliminarily determine that Dongbu's net subsidy rate under this program is 0.02 percent *ad valorem*.

G. Short–Term Export Financing

The Korean Export Import Bank (KEXIM) supplies two types of short–term loans for exporting companies, short–term trade financing and comprehensive export financing. KEXIM provides short–term loans to Korean exporters who manufacture export goods under export contracts. The loans are provided up to the amount of the bill of exchange or contracted amount less any amount already received. For comprehensive export financing loans, KEXIM supplies short–term loans to any small or medium–sized company, or any large company that is not included in the five largest conglomerates based on their comprehensive export performance. To obtain the loans, companies must report their export performance periodically to KEXIM for review. Comprehensive export financing loans cover from 50 to 90 percent of the company's export performance; however, the maximum loan amount is restricted to 30 billion won.

In *Steel Products from Korea*, the Department determined that the GOK's short–term export financing program was countervailable. *See Steel Products from Korea*, 58 FR at 37350; *see also*, *Cold–Rolled Decision Memorandum*, at ''Short–Term Export Financing.'' No new information, evidence of changed circumstances, or comments from interested parties were presented in this review to warrant any reconsideration of the countervailability of this program. Therefore, we continue to find this program countervailable. Specifically, we preliminarily determine that the program is specific, pursuant to section 771(5A)(B) of the Act, because receipt of the financing is contingent upon exporting. In addition, we preliminarily determine that the export financing constitutes a financial contribution in the form of a loan within the meaning of section 771(D)(i) of the Act and confers a benefit within the meaning of section 771(E)(ii) of the Act. POCOS, POSCO's affiliate, and Dongbu reported using short–term export financing during the POR.

Pursuant to 19 CFR 351.505(a)(1), to calculate the benefit under this program, we compared the amount of interest paid under the program to the amount of interest that would have been paid on a comparable commercial loan. As our benchmark, we used the short–term interest rates discussed above in the ''Subsidies Valuation Information'' section. To calculate the net subsidy rate, we divided the benefit by the f.o.b. value of the respective company's total exports. On this basis, we determine the net subsidy rate for POSCO and Dongbu to be 0.01 percent *ad valorem*.

II. Program Preliminarily Determined Not to Confer a Benefit During the POR

A. Reserve for Research and Manpower Development Fund Under RSTA Article 9 (Formerly Article 8 of TERCL)

On December 28, 1998, the TERCL was replaced by the Tax Reduction and Exemption Control Act (RSTA). Pursuant to this change in law, TERCL Article 8 is now identified as RSTA Article 9. Apart from the name change, the operation of RSTA Article 9 is the same as the previous TERCL Article 8 and its Enforcement Decree.

This program allows a company operating in manufacturing or mining, or in a business prescribed by the Presidential Decree, to appropriate reserve funds to cover expenses related to the development or innovation of technology. These reserve funds are

included in the company's losses and reduce the amount of taxes paid by the company. Under this program, capital goods companies and capital intensive companies can establish a reserve of five percent of total revenue, while companies in all other industries are only allowed to establish a three-percent reserve.

In a prior segment of this proceeding, we determined that this program is specific under section 771(5A)(D) of the Act because the capital goods industry is allowed to claim a larger tax reserve under this program than all other manufacturers. *See Preliminary Results of CORE from Korea (2004)*, 71 FR 53419. We also determined that this program provides a financial contribution within the meaning of section 771(5)(D)(ii) of the Act in the form of revenue forgone and that it provides benefit under section 771(5)(E) of the Act to the extent that companies in the capital goods industry, which includes steel manufacturers, pay less in taxes than they would absent the program. *Id.* In the *Preliminary Results of CORE from Korea (2004)*, we continued to find the program countervailable, but found that the companies under investigation only contributed to the reserve at the lower three–percent rate. Therefore, we found no countervailable benefit because the companies contributed at the lower rate, which was available to any Korean company. *Id.* No new information, or evidence of changed circumstances, was presented in this review to warrant reconsideration of the approaches adopted in the *Preliminary Results of CORE from Korea (2004)*.

In this administrative review, POSCO and POCOS each reported contributing to the reserve at the three–percent rate during the POR. We continue to find this program to be potentially countervailable. However, as each company contributed to the reserve at the lower three–percent rate, and in light of the Department's approach in the *Preliminary Results of CORE from Korea (2004)*, we preliminarily determine that no countervailable benefits were conferred under this program during the POR. Dongbu reported that it did not use this program during the POR.

III. Programs Preliminarily Determined To Be Not Used

A. Reserve for Investment (Special Cases of Tax for Balanced Development Among Areas Under TERCL Articles 41–45)

B. Electricity Discounts Under the Requested Loan Adjustment (RLA) Program

C. Electricity Discounts Under the Emergency Load Reductions (ELR) Program

D. Export Industry Facility Loans (EIFL) and Specialty Facility Loans

E. Reserve for Overseas Market Development Under TERCL Article 17

F. Equipment Investment to Promote Worker's Welfare Under TERCL Article 88

G. Emergency Load Reduction Program

H. Local Tax Exemption on Land Outside of a Metropolitan Area

I. Excessive Duty Drawback

J. Private Capital Inducement Act (PCIA)

K. Social Indirect Capital Investment Reserve Funds (Art. 28)

L. Energy–Savings Facilities Investment Reserve Funds (Art. 29)

M. Scrap Reserve Fund

N. Special Depreciation of Assets on Foreign Exchange Earnings

O. Export Insurance Rates Provided by the Korean Export Insurance Corporation

P. Loans from the National Agricultural Cooperation Federation

Q. Tax Incentives for Highly Advanced Technology Businesses Under the Foreign Investment and Foreign Capital Inducement Act

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for each of the producer/exporters subject to this administrative review. For the period January 1, 2005, through December 31, 2005, we preliminarily determine the net subsidy rate for POSCO to be 0.10 percent *ad valorem* and for Dongbu to be 0.27 percent *ad valorem*, both of which are *de minimis*. *See* 19 CFR 351.106(c)(1).

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (''CBP'') 15 days after the date of publication of the final results of this review. If the final results remain the same as these preliminary results, the Department will instruct CBP to liquidate without regard to countervailing duties all shipments of subject merchandise produced by POSCO and Dongbu, entered, or withdrawn from warehouse, for consumption from January 1, 2005, through December 31, 2005. The Department will also instruct CBP not to collect cash deposits of estimated countervailing duties on shipments of the subject merchandise produced by POSCO and Dongbu, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

We will instruct CBP to continue to collect cash deposits for non–reviewed companies at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed administrative proceeding for each company. These rates shall apply to all non–reviewed companies until a review of a company assigned these rates is requested.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the publication of these preliminary results. *See* 19 CFR 351.309(c)(1)(ii). Rebuttal briefs, which are limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. *See* 19 CFR 351.309(d)(1). Parties who submit argument in this proceeding are requested to submit with the argument: (1) a statement of the issue; and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310(c), within 30 days of the date of publication of this notice, interested parties may request a public hearing on arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of

issues raised in any case or rebuttal brief or at a hearing.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 31, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–17746 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

C–580–851

Dynamic Random Access Memory Semiconductors from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review

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

SUMMARY: The Department of Commerce is conducting an administrative review of the countervailing duty order on dynamic random access memory semiconductors from the Republic of Korea for the period January 1, 2005, through December 31, 2005. We preliminarily find that Hynix Semiconductor, Inc. received countervailable subsidies during the period of review. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (''CBP'') to assess countervailing duties as detailed in the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. *See* the ''Public Comment'' section of this notice.

EFFECTIVE DATE: September 10, 2007.

FOR FURTHER INFORMATION CONTACT: David Neubacher or Shane Subler, Office of Antidumping/Countervailing Duty Operations, Office 1, Import Administration, International Trade Administration, U.S. Department of Commerce, Room 3069, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5823 and (202) 482–0189, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 11, 2003, the Department of Commerce (''the Department'') published a countervailing duty order on dynamic random access memory semiconductors (''DRAMS'') from the Republic of Korea (''ROK''). *See Notice of Countervailing Duty Order: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 47546 (August 11, 2003) (''CVD Order''). On August 1, 2006, the Department published a notice of ''Opportunity to Request Administrative Review'' for this countervailing duty order. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review*, 71 FR 43441 (August 1, 2006). On August 30, 2006, we received a request for review from the petitioner, Micron Technology, Inc. (''Micron''). On August 31, 2006, we received a request for review from Hynix Semiconductor, Inc. (''Hynix''). In accordance with 19 CFR 351.221(c)(1)(i) (2004), we published a notice of initiation of the review on September 29, 2006. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006) (''*Initiation Notice*'').

On October 18, 2006, we issued countervailing duty questionnaires to the Government of the Republic of Korea (''GOK'') and Hynix. We received responses to these questionnaires on November 21, 2006. On April 24, 2007, we issued supplemental questionnaires to the GOK and Hynix. We received responses to these supplemental questionnaires on May 15, 2007. We issued additional supplemental questionnaires to the GOK and Hynix on July 2, 2007, and received responses on July 16, 2007.

We received new subsidy allegations from Micron on December 11, 2006.[1] On March 28, 2007, we initiated an investigation of one of the two new subsidies that Micron alleged in this administrative review. In addition, we stated our intention to examine the timing of the benefit of a previously countervailed debt–to-equity swap (''DES'') for the preliminary results. *See* Third Countervailing Duty Administrative Review: Dynamic Random Access Memory Semiconductors from Korea: New Subsidy Allegations Memorandum (March 28, 2007) (''New Subsidy Allegations—DOC Memorandum''), available in the Central Records Unit (''CRU''), Room B–099 of the main Department building.

On April 19, 2007, we published a postponement of the preliminary results in this review until August 31, 2007. *See Dynamic Random Access Memory Semiconductors from the Republic of Korea: Extension of Time Limit for Preliminary Results of the Countervailing Duty Review*, 72 FR 19694 (April 19, 2007).

Scope of the Order

The products covered by this order are DRAMS from the ROK, whether assembled or unassembled. Assembled DRAMS include all package types. Unassembled DRAMS include processed wafers, uncut die, and cut die. Processed wafers fabricated in the ROK, but assembled into finished semiconductors outside the ROK are also included in the scope. Processed wafers fabricated outside the ROK and assembled into finished semiconductors in the ROK are not included in the scope.

The scope of this order additionally includes memory modules containing DRAMS from the ROK. A memory module is a collection of DRAMS, the sole function of which is memory. Memory modules include single in–line processing modules, single in–line memory modules, dual in–line memory modules, small outline dual in–line memory modules, Rambus in–line memory modules, and memory cards or other collections of DRAMS, whether unmounted or mounted on a circuit board. Modules that contain other parts that are needed to support the function of memory are covered. Only those modules that contain additional items which alter the function of the module to something other than memory, such as video graphics adapter boards and cards, are not included in the scope. This order also covers future DRAMS module types.

The scope of this order additionally includes, but is not limited to, video random access memory and synchronous graphics random access memory, as well as various types of DRAMS, including fast page–mode, extended data–out, burst extended data–out, synchronous dynamic RAM, Rambus DRAM, and Double Data Rate DRAM. The scope also includes any future density, packaging, or assembling of DRAMS. Also included in the scope of this order are removable memory modules placed on motherboards, with or without a central processing unit, unless the importer of the motherboards certifies with CBP that neither it, nor a party related to it or under contract to it, will remove the modules from the motherboards after importation. The scope of this order does not include DRAMS or memory modules that are re–imported for repair or replacement.

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[1] *See* submission from Micron to the Department, Re: Dynamic Random Access Memory Semiconductors From South Korea/Petitioner's New Subsidies Allegation And New Issues Presented (December 11, 2006) (''New Subsidy Allegations'').

The DRAMS subject to this order are currently classifiable under subheadings 8542.21.8005 and 8542.21.8020 through 8542.21.8030 of the Harmonized Tariff Schedule of the United States (''HTSUS''). The memory modules containing DRAMS from the ROK, described above, are currently classifiable under subheadings 8473.30.10.40 or 8473.30.10.80 of the HTSUS. Removable memory modules placed on motherboards are classifiable under subheadings 8471.50.0085, 8517.30.5000, 8517.50.1000, 8517.50.5000, 8517.50.9000, 8517.90.3400, 8517.90.3600, 8517.90.3800, 8517.90.4400, and 8543.89.9600 of the HTSUS. Although the HTSUS subheadings are provided for convenience and customs purposes, the Department's written description of the scope of this order remains dispositive.

Scope Rulings

On December 29, 2004, the Department received a request from Cisco Systems, Inc. (''Cisco''), to determine whether removable memory modules placed on motherboards that are imported for repair or refurbishment are within the scope of the *CVD Order*. The Department initiated a scope inquiry pursuant to 19 CFR 351.225(e) on February 4, 2005. On January 12, 2006, the Department issued a final scope ruling, finding that removable memory modules placed on motherboards that are imported for repair or refurbishment are not within the scope of the CVD Order provided that the importer certifies that it will destroy any memory modules that are removed for repair or refurbishment. *See* Final Scope Ruling Memorandum from Stephen J. Claeys to David M. Spooner, dated January 12, 2006.

Period of Review

The period for which we are measuring subsidies, *i.e.*, the period of review (''POR''), is January 1, 2005, through December 31, 2005.

Changes in Ownership

Effective June 30, 2003, the Department adopted a new methodology for analyzing privatizations in the countervailing duty context. *See Notice of Final Modification of Agency Practice Under Section 123 of the Uruguay Round Agreements Act*, 68 FR 37125 (June 23, 2003) (''*Modification Notice*''). The Department's new methodology is based on a rebuttable ''baseline'' presumption that non–recurring, allocable subsidies continue to benefit the subsidy recipient throughout the allocation period (which normally corresponds to the average useful life (''AUL'') of the recipient's assets). However, an interested party may rebut this baseline presumption by demonstrating that, during the allocation period, a change in ownership occurred in which the former owner sold all or substantially all of a company or its assets, retaining no control of the company or its assets, and that the sale was an arm's–length transaction for fair market value.

Hynix's ownership changed during the AUL period as a result of debt–to-equity conversions in October 2001 and December 2002, and various asset sales. However, during the current administrative review, Hynix has not rebutted the Department's baseline presumption that the non–recurring, allocable subsidies received prior to the equity conversions and asset sales continue to benefit the company throughout the allocation period. *See* Hynix's November 21, 2006, supplemental questionnaire response at page 10; *see also Dynamic Random Access Memory Semiconductors from the Republic of Korea: Preliminary Results of Countervailing Duty Administrative Review*, 71 FR 46192, 46193 (August 11, 2006) (''*AR2 Preliminary Results*'').

Subsidies Valuation Information

Allocation Period

Pursuant to 19 CFR 351.524(b), non–recurring subsidies are allocated over a period corresponding to the AUL of the renewable physical assets used to produce the subject merchandise. Section 351.524(d)(2) of the Department's regulations creates a rebuttable presumption that the AUL will be taken from the U.S. Internal Revenue Service's 1977 Class Life Asset Depreciation Range System (the ''IRS Tables''). For DRAMS, the IRS Tables prescribe an AUL of five years. During this review, none of the interested parties disputed this allocation period. Therefore, we continue to allocate non–recurring benefits over the five-year AUL.

Discount Rates and Benchmarks for Loans

For loans that we found countervailable in the investigation or in the first two administrative reviews, and which continued to be outstanding during the POR, we have used the benchmarks from the first and second administrative reviews. These benchmarks are described below.

Long–term Rates

For long–term, won–denominated loans originating in 1986 through 1995, we used the average interest rate for three-year corporate bonds as reported by the Bank of Korea (''BOK'') or the International Monetary Fund (''IMF''). For long–term won–denominated loans originating in 1996 through 1999, we used annual weighted–averages of the rates on Hynix's corporate bonds, which were not specifically related to any countervailable financing. We did not use the rates on Hynix's corporate bonds for 2000–2003 for any calculations because Hynix either did not obtain bonds or obtained bonds through countervailable debt restructurings during those years.

For U.S. dollar–denominated loans, we relied on the lending rates as reported in the IMF's *International Financial Statistics Yearbook*.

For the years in which we previously determined Hynix to be uncreditworthy (2000 through 2003), we used the formula described in 19 CFR 351.505(a)(3)(iii) to determine the benchmark interest rate. For the probability of default by an uncreditworthy company, we used the average cumulative default rates reported for the Caa- to C- rated category of companies as published in Moody's Investors Service, ''Historical Default Rates of Corporate Bond Issuers, 1920–1997'' (February 1998). For the probability of default by a creditworthy company, we used the cumulative default rates for investment grade bonds as published in Moody's Investors Service: ''Statistical Tables of Default Rates and Recovery Rates'' (February 1998). For the commercial interest rates charged to creditworthy borrowers, we used the rates for won–denominated corporate bonds as reported by the BOK and the U.S. dollar lending rates published by the IMF for each year.

Short–term Rates

Consistent with the methodology used in the first and second administrative reviews, we used the money market rates as reported in the IMF's International Financial Statistics Yearbook for short–term interest rates. For countries (or currencies) for which a money market rate was not reported, we used the lending rate from the same source.

Analysis of Programs

I. Programs Previously Determined to Confer Subsidies

We examined the following programs determined to confer subsidies in the investigation and first two

administrative reviews and preliminarily find that Hynix continued to receive benefits under these programs during the POR.

A. GOK Entrustment or Direction Prior to 2004

In the investigation, the Department determined that the GOK entrusted or directed creditor banks to participate in financial restructuring programs, and to provide credit and other funds to Hynix, in order to assist Hynix through its financial difficulties. The financial assistance provided to Hynix by its creditors took various forms, including new loans, convertible and other bonds, extensions of maturities and interest rate reductions on existing debt (which we treated as new loans), Documents Against Acceptance (''D/A'') financing, usance financing, overdraft lines of credit, debt forgiveness, and debt–for-equity swaps. The Department determined that these were financial contributions that constituted countervailable subsidies during the period of investigation.

In the first and second administrative reviews, the Department found that the GOK continued to entrust or direct Hynix's creditors to provide financial assistance to Hynix throughout 2002 and 2003. The financial assistance provided to Hynix during this period included the December 2002 DES and the extensions of maturities and/or interest rate deductions on existing debt.

In an administrative review, we do not revisit past findings unless new factual information or evidence of changed circumstances has been placed on the record of the proceeding that would compel us to reconsider those findings. *See, e.g., Certain Pasta from Italy: Preliminary Results and Partial Rescission of Seventh Countervailing Duty Administrative Review*, 69 FR 45676 (July 30, 2004), unchanged in *Certain Pasta From Italy: Final Results of Seventh Countervailing Duty Administrative Review*, 69 FR 70657 (December 7, 2004). With the exception of the 2002 DES discussed below, no such new information regarding the financial contributions described above has been presented in this review. Thus, we preliminarily find that a re–examination of the Department's findings in the investigation, first administrative review, and second administrative review with respect to the debt forgiveness, 2001 DES, loans, and extensions of maturities and/or interest rate deductions on existing debt is unwarranted.

With respect to the DES that Hynix recorded in 2002, however, we are revisiting the findings of the previous administrative reviews based on new factual information placed on the record by the petitioner. *See* New Subsidy Allegations at page 8. In the first administrative review, the Department found that Hynix received a benefit from its December 2002 restructuring and associated DES in 2002. *See Dynamic Random Access Memory Semiconductors from the Republic of Korea: Final Results of Countervailing Duty Administrative Review*, 71 FR 14174 (March 21, 2006), and accompanying Issues and Decision Memorandum at Comment 13, pages 73–77 (''*AR1 Decision Memorandum*''). In the New Subsidy Allegations, in pre–preliminary comments dated August 7, 2007, and in follow–up comments dated August 24, 2007, Micron requested that the Department reallocate the benefit stream from the DES over the five-year period beginning in 2003.[2]

Citing new information on the record, Micron contends that Hynix's creditors continued to treat their claims owed by Hynix as debt as of the end of 2002, which contrasted with Hynix's treatment of the DES as a capital adjustment on its 2002 financial statements. Contesting Hynix's assertion that the Department measures subsidies in terms of benefit to the recipient, Micron contends that the issue with Hynix's DES concerns timing, not benefit. Furthermore, Micron argues that Korean accounting standards and the Korean tax authority required Hynix to account for the DES as a 2003 event. Also, citing new record evidence, Micron argues that shareholder approval of the capital reduction was not ''pro forma.'' As support for its contention that Hynix's board could have rejected the recommendations of Hynix's Creditors' Council, Micron notes that Hynix's board rejected a creditors' recommendation in April 2002 to sell the company to Micron. Finally, Micron argues that the Department should reconsider the legal significance it granted to Hynix's accounting treatment in light of its treatment of debt–to-equity swaps in previous cases such as *GOES from Italy*.[3]

In submissions dated January 5, 2007, and August 14, 2007, Hynix contends that the Department's treatment of the DES in the first administrative review was consistent with its treatment of another DES during the original investigation, with its regulations at 19 CFR 351.507(b), and with its benefit–to-recipient standard.[4] Hynix also rejects the significance of the new information on the record. First, Hynix argues that the Korean accounting standard cited by Micron did not exist at the time of the DES. Second, Hynix claims the tax standards cited by Micron related to a convertible bond transaction, not a DES. Third, Hynix argues that creditors' treatment of the claims as debt at the end of 2002 is irrelevant because the Department measures subsidies in terms of benefits to the recipient. Finally, Hynix states that the Department already considered information about minority shareholder opposition to the capital reduction and Hynix's accounting treatment in the first administrative review.

We preliminarily find, consistent with our decision in the first administrative review, that Hynix received the benefit from the December 2002 restructuring and the associated DES in 2002. On page 77 of the AR1 Decision Memorandum, the Department stated,

> Although these events might be significant in other instances, we find that the facts of this case deem these events pro forma. Instead, the Creditors' Council's approval on December 30, 2002, is the singular factor in effectuating the restructuring. This is because the Creditors' Council controlled Hynix and because those creditors were entrusted or directed by the GOK to carry out the December 2002 restructuring.

Furthermore, in the *Investigation Decision Memorandum*,[5] we stated the following with regard to a separately countervailed DES:

> In accordance with 19 CFR 351.507(b), the receipt of benefit occurs on the date on which the

[2] *See* New Subsidy Allegations at pages 1–25; *see also* submission from Micron to the Department, Re: Dynamic Random Access Memory Semiconductors from South Korea: Petitioner's Pre-Preliminary Comments (August 7, 2007), at pages 1–9; *see also* submission from Micron to the Department, Re: Dynamic Random Access Memory Semiconductors from South Korea: Petitioner's Reply In Support Of Its Pre-Preliminary Comments (August 24, 2007).

[3] *See Final Affirmative Countervailing Duty Determination: Grain-Oriented Electrical Steel from Italy*, 59 FR 18357, 18360–66 (April 18, 1994) (''*GOES from Italy*'').

[4] *See* submission from Hynix to the Department, Re: Dynamic Random Access Memory Semiconductors from Korea: Response to Micron's New Subsidies Allegation and New Issues Presented (January 5, 2007), at pages 1–7; *see also* submission from Hynix to the Department, Re: Dynamic Random Access Memory Semiconductors from Korea: Rebuttal of Hynix Semiconductor Inc. and the Government of Korea to Micron's Pre-Preliminary Comments (August 14, 2007), at pages 1–3.

[5] *See Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 37122 (June 23, 2003), and accompanying Issues and Decision Memorandum at Comment 11, pages 95–96 (''*Investigation Decision Memorandum*'').

firm received the equity infusion. Because Hynix recognized the equity infusion in its 2001 audited financial statement and the convertible bonds that were agreed to and issued carried an obligation to convert as of June 1, 2002, we find that the date on which Hynix received the equity infusion occurred in 2001.

We preliminarily find that the new record information cited by Micron does not warrant reversal of our conclusion from the *AR1 Decision Memorandum* that the Creditors' Council controlled Hynix with respect to the restructuring and was entrusted or directed by the GOK to carry out the restructuring. Although Micron cited new factual information to demonstrate that Hynix's board of directors does not automatically approve all recommendations by creditors, we preliminarily find that the circumstances behind Hynix's 2002 restructuring and those behind the potential sale of the company are not comparable.

Furthermore, we preliminarily find that the new information cited by Micron does not warrant reversal of our conclusion from the *Investigation Decision Memorandum* that the receipt of benefit resulting from a DES occurs on the date on which a firm receives the equity infusion, as recognized on the firm's audited financial statements. The fact that certain Hynix creditors continued to treat the amounts as debt after December 2002 does not outweigh the evidence that Hynix received a benefit in 2002, when it recorded the transaction as a capital adjustment. Focusing on when the recipient formally recorded the capital infusion in its books is in accordance with our regulatory provision that we will consider the benefit to have been received ''on the date on which the firm received the equity infusion.'' *See* 19 CFR 351.507(b). The Department's regulation does not direct us to examine the date on which the provider of the financial contribution considered the equity infusion to be complete. Further, with respect to Korean accounting standards, we note that the statement principally relied upon by Micron was not in effect at the time of the December 2002 restructuring. Additionally, even if Hynix *should* not have recognized the benefit until 2003, this does not mean that it did not, in fact, receive the benefit in 2002.

Therefore, we are including in our benefit calculation the financial contributions countervailed in the investigation, the first administrative review, and the second administrative review: bonds, debt–to-equity swaps, debt forgiveness, and long–term debt outstanding during the POR. In calculating the benefit, we have followed the same methodology used in the first and second administrative reviews.

Because we found Hynix to be unequityworthy at the time of the debt–for-equity swaps in 2001 and 2002, we have treated the full amount swapped as grants and allocated the benefit over the five-year AUL. *See* 19 CFR 351.507(a)(6) and (c). We used a discount rate that reflects our finding that Hynix was uncreditworthy at the time of the debt–to-equity conversions. For the loans, we have followed the methodology described at 19 CFR 351.505(c) using the benchmarks described in the ''Subsidies Valuation Information'' section of this notice.

We divided the total benefits from the various financial contributions by Hynix's POR sales to calculate a countervailable subsidy rate of 23.73 percent *ad valorem* for the POR.

B. Operation G–7/HAN Program

Implemented under the Framework on Science and Technology Act, the Operation G–7/HAN Program (''G–7/HAN Program'') began in 1992 and ended in 2001. The purpose of this program was to raise the GOK's technology standards to the level of the G–7 countries. The Department found that the G7/HAN Program ended in 2001. *See Investigation Decision Memorandum* at 25. However, during the POR, Hynix had outstanding interest–free loans that it had previously received under this program. *See* Hynix's November 21, 2006, questionnaire response at page 16 and Exhibit 12. We found that the Operation G–7/Han Program provided countervailable subsidies in the investigation. No interested party provided new evidence that would lead us to reconsider our earlier finding. Therefore, we have calculated a benefit for these loans.

To calculate the benefit of these loans during the POR, we compared the interest actually paid on the loans during the POR to what Hynix would have paid under the benchmark described in the ''Subsidy Valuation Information'' section of this notice. Next, we divided the total benefit by Hynix's total sales of subject merchandise for the POR to calculate the countervailable subsidy. On this basis, we preliminarily determine that countervailable benefits of .05 percent *ad valorem* existed for Hynix.

C. 21st Century Frontier R&D Program

The 21st Century Frontier R&D Program (''21st Century Program'') was established in 1999 with a structure and governing regulatory framework similar to those of the G–7/HAN Program, and for a similar purpose, *i.e.*, to promote greater competitiveness in science and technology. The 21st Century Program provides long–term interest–free loans in the form of matching funds. Repayment of program funds is made in the form of ''technology usance fees'' upon completion of the project, pursuant to a schedule established under a technology execution, or implementation contract.

Hynix reported that it had loans from the 21st Century Program outstanding during the POR. *See* Hynix's November 21, 2006, questionnaire response at page 17 and Exhibit 12.

In the investigation, we determined that this program conferred a countervailable benefit on Hynix. No interested party provided new evidence that would lead us to reconsider our earlier finding. Therefore, we have calculated a benefit for these loans.

To calculate the benefit of these loans during the POR, we compared the interest actually paid on the loans during the POR to what Hynix would have paid under the benchmark described in the ''Subsidy Valuation Information'' section of this notice. We then divided the total benefit by Hynix's total sales in the POR to calculate the countervailable subsidy rate. On this basis, we calculated a preliminarily subsidy rate of zero *ad valorem* for this program. Because the rate is *de minimis*, we did not include this program in our preliminary net countervailing duty rate, which is consistent with our past practice. *See, e.g., Notice of Preliminary Results of Countervailing Duty Review: Certain Softwood Lumber Products from Canada*, 70 FR 33088, 33091 (June 7, 2005).

II. New Subsidy Allegation—Import Duty Reduction Program for Certain Factory Automation Items

On page 63 of its New Subsidy Allegations, Micron stated that Article 95(1).4 of the Korean Customs Act provides for import duty reductions on imports of ''machines, instruments and facilities (including the constituent machines and tools) and key parts designated by the Ordinance of the Ministry of Finance and Economy (''MOFE'') for a factory automatization applying machines, electronics or data processing techniques.'' Micron alleged that this program has been used by the GOK as a policy tool to support

investments in capital goods by Korea's major strategic industries, including the semiconductor industry. According to Micron, nearly 20% of the items designated by MOFE as eligible for reduced import duties were directly related to semiconductor production. To the extent these items were not already subject to duty reduction or elimination through operation of the Information Technology Agreement or other preferential tariff programs, Micron argued that Hynix benefitted significantly from this program, particularly in 2005.

We initiated a review of this program in the New Subsidy Allegations—DOC Memorandum.[6] On January 17, 2007, the GOK submitted a list of the companies that received duty reductions under the program between 2002 and 2005.[7] In supplemental questionnaires issued to the GOK on April 24, 2007, and July 2, 2007, we requested information on the general background of the program, the industries and imported products eligible for the program, the translated names of the recipients and industries using the program, and the amount of the duty savings. The GOK provided this information in responses dated May 15, 2007,[8] and July 16, 2007.[9]

Based on our analysis of the GOK's submissions, we preliminarily find that the Import Duty Reduction Program provided a countervailable subsidy to Hynix during the POR. Specifically, we determine that the import duty reductions provide a financial contribution in the form of revenue forgone by the GOK and a benefit in the amount of the duty savings. See section 771(5)(D)(ii) of the Act and 19 CFR 351.510(a).

Regarding specificity, information submitted by the GOK shows that the import duty reductions under the program are available to any company importing factory automation equipment eligible for the duty reduction. Therefore, there is no basis to find this program de jure specific under section 771(5A)(D)(i) of the Act. However, we have gone on to review usage data submitted by the GOK and preliminarily find that Hynix received a disproportionately large amount of the subsidy. See Third Countervailing Duty Administrative Review: Dynamic Random Access Memory Semiconductors from Korea: Analysis Memorandum for Business Proprietary Information on Korean Import Duty Reduction Program (August 31, 2007).

Therefore, we preliminarily find that the Import Duty Reduction Program is *de facto* specific under section 771(5A)(D)(iii)(III) of the Act.

To calculate the benefit, we divided the total duty savings Hynix received by Hynix's total sales during the POR. On this basis, we preliminarily determine the countervailable subsidy to be .04 percent during the POR.

III. Programs Previously Found Not to Have Been Used or Provided No Benefits

We preliminarily determine that the following programs were not used during the POR:

A. Short–Term Export Financing
B. Reserve for Research and Human Resources Development (formerly Technological Development Reserve) (Article 9 of RSTA / formerly, Article 8 of TERCL)
C. Tax Credit for Investment in Facilities for Productivity Enhancement (Article 24 of RSTA /Article 25 of TERCL)
D. Tax Credit for Investment in Facilities for Special Purposes (Article 25 of RSTA)
E. Reserve for Overseas Market Development (formerly, Article 17 of TERCL)
F. Reserve for Export Loss (formerly, Article 16 of TERCL)
G. Tax Exemption for Foreign Technicians (Article 18 of RSTA)
H. Reduction of Tax Regarding the Movement of a Factory That Has Been Operated for More Than Five Years (Article 71 of RSTA)
I. Tax Reductions or Exemption on Foreign Investments under Article 9 of the Foreign Investment Promotion Act (''FIPA'')/ FIPA (Formerly Foreign Capital Inducement Law)
J. Duty Drawback on Non–Physically Incorporated Items and Excessive Loss Rates
K. Export Insurance
L. Electricity Discounts Under the RLA Program
M. Import Duty Reduction for Cutting Edge Products

See Hynix's November 21, 2006, questionnaire response at pages 21–22 and the GOK's November 21, 2006, questionnaire response at pages 12–13.

In the first administrative review, the Department found that ''any benefits provided to Hynix under the System IC 2010 Project are tied to non–subject merchandise'' and, therefore, that ''Hynix did not receive any countervailable benefits under this program during the POR,'' in accordance with 19 CFR 351.525(b)(5). *See AR1 Decision Memorandum* at page 15. No new information has been provided with respect to this program. Therefore, we preliminarily find that Hynix did not receive any countervailing benefits from the System IC 2010 Project during the POR.

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for Hynix Semiconductor, Inc., the producer/exporter covered by this administrative review. We preliminarily determine that the total estimated net countervailable subsidy rate for Hynix for calendar year 2005 is 23.82 percent *ad valorem*.

If these preliminary results are adopted in our final results of this review, fifteen days after publication of the final results of this review the Department will instruct CBP to liquidate shipments of DRAMS by Hynix entered or withdrawn from warehouse, for consumption from January 1, 2005, through December 31, 2005, at 23.82 percent *ad valorem* of the F.O.B. invoice price.

The Department will also instruct CBP to collect cash deposits of estimated countervailing duties at 23.82 percent *ad valorem* of the F.O.B. invoice price on all shipments of the subject merchandise from Hynix, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

We will instruct CBP to continue to collect cash deposits for non–reviewed companies covered by this order at the most recent company–specific rate applicable to the company. Accordingly, the cash deposit rate that will be applied to non–reviewed companies covered by this order will be the rate for that company established in the investigation. *See Notice of Amended Final Affirmative Countervailing Duty Determination: Dynamic Random Access Memory Semiconductors from the Republic of Korea*, 68 FR 44290 (July 28, 2003). The ''all others'' rate shall apply to all non–reviewed companies until a review of a company assigned this rate is requested. The Department

[6] *See* New Subsidy Allegations—DOC Memorandum at pages 6–8.

[7] See submission from the GOK to the Department, Re: Dynamic Random Access Memory Semiconductors from Korea: Response to Micron's New Subsidies Allegation and New Issues Presented (January 17, 2007), at Exhibit 2.

[8] *See* submission from the GOK to the Department, Re: Dynamic Random Access Memory Semiconductors from Korea: Response of the Government of Korea to the Department of Commerce's First Supplemental Questionnaire (May 15, 2007).

[9] *See* submission from the GOK to the Department, Re: Dynamic Random Access Memory Semiconductors from Korea: Response of the Government of Korea to the Department of Commerce's Second Supplemental Questionnaire (July 16, 2007).

has previously excluded Samsung Electronics Co., Ltd. from this order. *Id.*

On August 13, 2007, Hynix requested that the Department adjust the deposit rate to more accurately reflect CVD liability. Hynix asserts that the record of this proceeding demonstrates a substantial change to and termination of known non–recurring subsidy benefit streams in 2005 and 2006, as well as termination of the program related to GOK entrustment or direction prior to 2004. Citing 19 CFR 351.526, Hynix claims that the Department has regulations involving program–wide changes that allow it to adjust the deposit rate, as well as the discretion to effect changes in the deposit rate where circumstances do not fit the more formal program–wide change criteria.[10] Hynix asserts that under 19 CFR 351.526, the Department may make an adjustment to the CVD deposit rate where: 1) the Department determines that a program–wide change has occurred, which encompasses any change effectuated by an official act not limited to an individual firm or firms; and 2) the Department is able to measure the change in the amount of the countervailable subsidies provided under the program in question. Hynix alleges that the facts of this case, even if they do not technically fit all aspects of 19 CFR 351.526, are sufficient to warrant a deposit rate adjustment because an unadjusted CVD deposit rate will not remotely reflect anticipated CVD liability.

Hynix notes that the Department, under 19 CFR 351.526, will only refrain from such adjustments in cases when residual benefits may continue under the terminated program or when a substitute program has been introduced. Hynix asserts, however, that the Department has departed from this narrow rule in certain instances. Citing the *Pure Magnesium Decision Memorandum*,[11] Hynix argues that the Department has departed from the narrower rule when the only event at issue was the termination of a known subsidy benefit stream during the POR. Hynix claims that there is no statutory bar to further development of the exception, and that the Department has the discretion to draw distinctions on a case–specific basis and to adjust the deposit rate where necessary.

On August 21, 2007, petitioner submitted a letter objecting to Hynix's request. Petitioner objects for the following reasons: 1) the letter was too late for the Department to consider; 2) as Hynix admits, the facts do not fit all aspects of 19 CFR 351.526, and the Department has previously found that expiration of benefits from a non–recurring subsidy does not qualify as a program wide change;[12] 3) even in cases cited by Hynix where the Department reduced the cash deposit rate to reflect the expiration of non–recurring subsidies, the amortization period ended during the POR, and the Department has made clear that where the benefit is set to expire after the end of the POR, no adjustment to the cash deposit is necessary;[13] and 4) Hynix's argument is premised on the assumption that the Department will not revise the allocation period for the 2003 bailout.

We disagree with Hynix that the cash deposit rate should be revised for expiry of the program related to GOK entrustment or direction prior to 2004. It is the Department's general practice to adjust cash deposit rates to reflect the expected discontinuation of future subsidy benefits only where it has been demonstrated that a program–wide change has occurred, pursuant to 19 CFR 351.526. As we stated in the *Pure Magnesium Decision Memorandum* at Comment 2, the Department only provided a narrowly circumscribed exception to this general practice in light of certain, specific conditions; namely, the information needed to make the adjustment was derived entirely from the POR and the expiry of the subsidy meant the expected countervailing duty rate for entries subject to the deposit rate set in that review was *de minimis*. These circumstances do not apply in this review. Therefore, the rationale for the limited exception in prior cases is not met in this review. Accordingly, we are not revising the cash deposit rate for expiry of the program related to GOK entrustment or direction prior to 2004.

[10] *See Stainless Steel Sheet and Strip in Coils from France: Final Results of Countervailing Duty Administrative Review*, 68 FR 53963 (September 15, 2003), and accompanying *Issues and Decision Memorandum at Comment 3; and Low Enriched Uranium from Germany, the Netherlands, and the United Kingdom: Final Results of Countervailing Duty Administrative Reviews*, 69 FR 40869 (July 7, 2004), and accompanying Issues and Decision Memorandum at Comment 3.

[11] *See Pure Magnesium and Alloy Magnesium from Canada: Final Results of Countervailing Duty Administrative Review*, 70 FR 54367 (September 14, 2005), and accompanying Issues and Decision Memorandum at Comment 2 (*"Pure Magnesium Decision Memorandum"*).

[12] *See Carbon and Ally Steel Wire Rod from Canada: Final Affirmative Countervailing Duty Determination*, 67 FR 55813 (August 30, 2002), and accompanying Issues and Decision Memorandum at Comment 11.

[13] *See Pure Magnesium Decision Memorandum* at Comment 2.

Public Comment

Interested parties may submit written arguments in case briefs within 30 days of the date of publication of this notice. Rebuttal briefs, limited to issues raised in case briefs, may be filed not later than five days after the date of filing the case briefs. Parties who submit briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Copies of case briefs and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f).

Interested parties may request a hearing within 30 days after the date of publication of this notice. Unless otherwise specified, the hearing, if requested, will be held two days after the scheduled date for submission of rebuttal briefs.

The Department will publish a notice of the final results of this administrative review within 120 days from the publication of these preliminary results.

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

Dated: August 31, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–17759 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–570–917)

Laminated Woven Sacks from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation

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

EFFECTIVE DATE: September 10, 2007.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley or Jack Zhao, 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) 482–3148 and (202) 482–1396, respectively.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 2007, the Department of Commerce (Department) initiated the countervailing duty investigation of laminated woven sacks (LWS) from the

People's Republic of China. *See Laminated Woven Sacks from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 72 FR 40839 (July 25, 2007). Currently, the preliminary determination is due no later than September 21, 2007.

Postponement of Due Date for Preliminary Determination

On August 23, 2007, Bancroft Bag, Inc., Coating Excellence International, Inc., Hood Packaging Corporation, Mid–America Packaging, LLC, and Polytex Fibers Corporation (collectively, petitioners), submitted a letter requesting that the Department postpone the preliminary determination of the countervailing duty investigation of LWS from the People's Republic of China by 65 days. Under section 703(c)(1)(A) of the Tariff Act of 1930, as amended (the Act), the Department may extend the period for reaching a preliminary determination in a countervailing duty investigation until not later than the 130th day after the date on which the administering authority initiates an investigation if the petitioner makes a timely request for an extension of the period within which the determination must be made under section 703(b) of the Act. Pursuant to section 351.205(e) of the Department's regulations, the petitioners' request for postponement of the preliminary determination was made 25 days or more before the scheduled date of the preliminary determination. Accordingly, we are extending the due date for the preliminary determination by 65 days to November 25, 2007. Because November 25, 2007 is a Sunday, the Department will issue the preliminary determination no later than November 26, 2007.

This notice is issued and published pursuant to section 703(c)(2) of the Act.

Dated: August 31, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–17747 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(C–580–835)

Stainless Steel Sheet and Strip in Coils from the Republic of Korea: Preliminary Results of Countervailing 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 countervailing duty (CVD) order on stainless steel sheet and strip in coils from the Republic of Korea (Korea) for the period January 1, 2005, through December 31, 2005. We preliminarily find that the net subsidy rate for the producer/exporter under review is *de minimis*. See the ''Preliminary Results of Review'' section of this notice. Interested parties are invited to comment on these preliminary results. (*See* the ''Public Comment'' section of this notice).

EFFECTIVE DATE: September 10, 2007.

FOR FURTHER INFORMATION CONTACT: Preeti Tolani or Robert Copyak, AD/CVD Operations, Office 3, Import Administration, U.S. Department of Commerce, Room 4014, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0395 or (202) 482–2209, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 1999, the Department published in the **Federal Register** the CVD order on stainless steel sheet and strip in coils from Korea. *See Amended Final Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea; and Notice of Countervailing Duty Orders: Stainless Steel Sheet and Strip from France, Italy and the Republic of Korea*, 64 FR 42923 (August 6, 1999). On August 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 43441 (August 1, 2006). On August 8, 2006, we received a timely request for review from Dai Yang Metal Co., Ltd. (DMC). On September 29, 2006, the Department published a notice of initiation of the administrative review of the CVD order on stainless steel sheet and strip in coils from Korea covering the period of review (POR) January 1, 2005, through December 31, 2005. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 57465 (September 29, 2006). On September 27, 2006, the Department sent questionnaires to DMC and the Government of Korea (GOK). On November 30, 2006, the Department received questionnaire responses from DMC and the GOK. On February 12, 2007, DMC and the GOK submitted responses to the Department's January 29, 2007, supplemental questionnaires.

On May 9, 2007, the Department published in the **Federal Register** an extension of the preliminary results deadline. *See Stainless Steel Sheet and Strip from the Republic of Korea: Extension of Time Limit for Preliminary Results of Countervailing Duty Administrative Review*, 72 FR 26338.

In accordance with 19 CFR 351.213(b), this review covers only those producers or exporters for which a review was specifically requested. The only company subject to this review is DMC.

Scope of Order

The products subject to this order are certain stainless steel sheet and strip in coils. Stainless steel is an alloy steel containing, by weight, 1.2 percent or less of carbon and 10.5 percent or more of chromium, with or without other elements. The subject sheet and strip is a flat–rolled product in coils that is greater than 9.5 mm in width and less than 4.75 mm in thickness and that is annealed or otherwise heat treated and pickled or otherwise descaled. The subject sheet and strip may also be further processed (*e.g.*, cold–rolled, polished, aluminized, coated), provided that it maintains the specific dimensions of sheet and strip following such processing.

The merchandise subject to this order is currently classifiable in the *Harmonized Tariff Schedule of the United States* (HTSUS) at subheadings: 7219.13.00.30, 7219.13.00.50, 7219.13.00.70, 7219.13.00.80, 7219.14.00.30, 7219.14.00.65, 7219.14.00.90, 7219.32.00.05, 7219.32.00.20, 7219.32.00.25, 7219.32.00.35, 7219.32.00.36, 7219.32.00.38, 7219.32.00.42, 7219.32.00.44, 7219.33.00.05, 7219.33.00.20, 7219.33.00.25, 7219.33.00.35, 7219.33.00.36, 7219.33.00.38, 7219.33.00.42, 7219.33.00.44, 7219.34.00.05, 7219.34.00.20, 7219.34.00.25, 7219.34.00.30, 7219.34.00.35, 7219.35.00.05, 7219.35.00.15, 7219.35.00.30, 7219.35.00.35, 7219.90.00.10, 7219.90.00.20, 7219.90.00.25, 7219.90.00.60, 7219.90.00.80, 7220.12.10.00, 7220.12.50.00, 7220.20.10.10, 7220.20.10.15, 7220.20.10.60, 7220.20.10.80, 7220.20.60.05, 7220.20.60.10, 7220.20.60.15, 7220.20.60.60, 7220.20.60.80, 7220.20.70.05, 7220.20.70.10, 7220.20.70.15, 7220.20.70.60, 7220.20.70.80, 7220.20.80.00, 7220.20.90.30, 7220.20.90.60, 7220.90.00.10, 7220.90.00.15, 7220.90.00.60, and 7220.90.00.80. Although the HTSUS subheadings are

provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Excluded from the scope of this order are the following: (1) sheet and strip that is not annealed or otherwise heat treated and pickled or otherwise descaled, (2) sheet and strip that is cut to length, (3) plate (*i.e.*, flat–rolled stainless steel products of a thickness of 4.75 mm or more), (4) flat wire (*i.e.*, cold–rolled sections, with a prepared edge, rectangular in shape, of a width of not more than 9.5 mm), and (5) razor blade steel. Razor blade steel is a flat rolled product of stainless steel, not further worked than cold–rolled (cold–reduced), in coils, of a width of not more than 23 mm and a thickness of 0.266 mm or less, containing, by weight, 12.5 to 14.5 percent chromium, and certified at the time of entry to be used in the manufacture of razor blades. *See* Chapter 72 of the HTSUS, ''Additional U.S. Note'' 1(d).

The Department has determined that certain specialty stainless steel products are also excluded from the scope of this order. These excluded products are described below:

Flapper valve steel is defined as stainless steel strip in coils containing, by weight, between 0.37 and 0.43 percent carbon, between 1.15 and 1.35 percent molybdenum, and between 0.20 and 0.80 percent manganese. This steel also contains, by weight, phosphorus of 0.025 percent or less, silicon of between 0.20 and 0.50 percent, and sulfur of 0.020 percent or less. The product is manufactured by means of vacuum arc remelting, with inclusion controls for sulphide of no more than 0.04 percent and for oxide of no more than 0.05 percent. Flapper valve steel has a tensile strength of between 210 and 300 ksi, yield strength of between 170 and 270 ksi, plus or minus 8 ksi, and a hardness (Hv) of between 460 and 590. Flapper valve steel is most commonly used to produce specialty flapper valves in compressors.

Also excluded is a product referred to as suspension foil, a specialty steel product used in the manufacture of suspension assemblies for computer disk drives. Suspension foil is described as 302/304 grade or 202 grade stainless steel of a thickness between 14 and 127 microns, with a thickness tolerance of plus–or-minus 2.01 microns, and surface glossiness of 200 to 700 percent Gs. Suspension foil must be supplied in coil widths of not more than 407 mm, and with a mass of 225 kg or less. Roll marks may only be visible on one side, with no scratches of measurable depth. The material must exhibit residual stresses of 2 mm maximum deflection, and flatness of 1.6 mm over 685 mm length.

Certain stainless steel foil for automotive catalytic converters is also excluded from the scope of this order. This stainless steel strip in coils is a specialty foil with a thickness of between 20 and 110 microns used to produce a metallic substrate with a honeycomb structure for use in automotive catalytic converters. The steel contains, by weight, carbon of no more than 0.030 percent, silicon of no more than 1.0 percent, manganese of no more than 1.0 percent, chromium of between 19 and 22 percent, aluminum of no less than 5.0 percent, phosphorus of no more than 0.045 percent, sulfur of no more than 0.03 percent, lanthanum of between 0.002 and 0.05 percent, and total rare earth elements of more than 0.06 percent, with the balance iron.

Permanent magnet iron–chromium-cobalt alloy stainless strip is also excluded from the scope of this order. This ductile stainless steel strip contains, by weight, 26 to 30 percent chromium, and 7 to 10 percent cobalt, with the remainder of iron, in widths 228.6 mm or less, and a thickness between 0.127 and 1.270 mm. It exhibits magnetic remanence between 9,000 and 12,000 gauss, and a coercivity of between 50 and 300 oersteds. This product is most commonly used in electronic sensors and is currently available under proprietary trade names such as ''Arnokrome III.''[1]

Certain electrical resistance alloy steel is also excluded from the scope of this order. This product is defined as a non–magnetic stainless steel manufactured to American Society of Testing and Materials (ASTM) specification B344 and containing, by weight, 36 percent nickel, 18 percent chromium, and 46 percent iron, and is most notable for its resistance to high temperature corrosion. It has a melting point of 1390 degrees Celsius and displays a creep rupture limit of 4 kilograms per square millimeter at 1000 degrees Celsius. This steel is most commonly used in the production of heating ribbons for circuit breakers and industrial furnaces, and in rheostats for railway locomotives. The product is currently available under proprietary trade names such as ''Gilphy 36.''[2]

Certain martensitic precipitation–hardenable stainless steel is also excluded from the scope of this order. This high–strength, ductile stainless steel product is designated under the Unified Numbering System (UNS) as S45500–grade steel, and contains, by weight, 11 to 13 percent chromium and 7 to 10 percent nickel. Carbon, manganese, silicon and molybdenum each comprise, by weight, 0.05 percent or less, with phosphorus and sulfur each comprising, by weight, 0.03 percent or less. This steel has copper, niobium, and titanium added to achieve aging, and will exhibit yield strengths as high as 1700 Mpa and ultimate tensile strengths as high as 1750 Mpa after aging, with elongation percentages of 3 percent or less in 50 mm. It is generally provided in thicknesses between 0.635 and 0.787 mm, and in widths of 25.4 mm. This product is most commonly used in the manufacture of television tubes and is currently available under proprietary trade names such as ''Durphynox 17.''[3]

Finally, three specialty stainless steels typically used in certain industrial blades and surgical and medical instruments are also excluded from the scope of this order. These include stainless steel strip in coils used in the production of textile cutting tools (*e.g.*, carpet knives).[4] This steel is similar to ASTM grade 440F, but containing, by weight, 0.5 to 0.7 percent of molybdenum. The steel also contains, by weight, carbon of between 1.0 and 1.1 percent, sulfur of 0.020 percent or less and includes between 0.20 and 0.30 percent copper and between 0.20 and 0.50 percent cobalt. This steel is sold under proprietary names such as ''GIN4 HI–C.'' The second excluded stainless steel strip in coils is similar to AISI 420–J2 and contains, by weight, carbon of between 0.62 and 0.70 percent, silicon of between 0.20 and 0.50 percent, manganese of between 0.45 and 0.80 percent, phosphorus of no more than 0.025 percent and sulfur of no more than 0.020 percent. This steel has a carbide density on average of 100 carbide particles per square micron. An example of this product is ''GIN5'' steel. The third specialty steel has a chemical composition similar to AISI 420 F, with carbon of between 0.37 and 0.43 percent, molybdenum of between 1.15 and 1.35 percent, but lower manganese of between 0.20 and 0.80 percent, phosphorus of no mor than 0.025 percent, silicon of between 0.20 and 0.50 percent, and sulfur of no more than 0.020 percent. This product is supplied with a hardness of more than Hv 500 guaranteed after customer processing, and is supplied as, for example, ''GIN6.''

[1] ''Arnokrome III'' is a trademark of the Arnold Engineering Company.

[2] ''Gilphy 36'' is a trademark of Imphy, S.A.

[3] ''Durphynox 17'' is a trademark of Imphy, S.A.

[4] This list of uses is illustrative and provided for descriptive purposes only.

Subsidies Valuation Information

Benchmark for Long–Term Loans issued through 2005: During the POR, DMC had both won–denominated and foreign currency–denominated long–term loans outstanding which it received from government–owned banks and Korean commercial banks. Based on our findings on this issue in prior investigations and reviews, we are using the following benchmarks to calculate the subsidies attributable to respondent's long–term loans obtained in the years 1991 through 2005:

(1) For countervailable foreign currency–denominated loans, pursuant to 19 CFR 351.505(a)(2)(i), and consistent with our practice to date, our preference is to use the company–specific weighted–average foreign currency–denominated interest rates on the company's loans from foreign bank branches in Korea, foreign securities, and direct foreign loans received after April 1992. *See Final Affirmative Countervailing Duty Determination: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 64 FR 30636, 30642 (June 8, 1999). *See also Final Negative Countervailing Duty Determination: Stainless Steel Plate in Coils from the Republic of Korea*, 64 FR 15530, 15533 (March 31, 1999) (*Plate in Coils*). For variable–rate loans outstanding during the POR, pursuant to 19 CFR 351.505(a)(2)(i), our preference is to use, as the benchmark, an interest rate of a variable–rate lending instrument issued during the POR; and for long–term fixed–rate loans, pursuant to 19 CFR 351.505(a)(2)(iii), our preference is to use a benchmark rate issued in the same year that the loan was issued. However, no such benchmark instruments were available, and consistent with our methodology in the prior administrative review, we relied on the lending rates as reported by the IMF's *International Financial Statistics Yearbook*. *See Final Results of Countervailing Duty Administrative Review: Stainless Steel Sheet and Strip in Coils from the Republic of Korea*, 72 FR 120 (January 3, 2007).

(2) For countervailable won–denominated long–term loans, our practice is to use the company–specific corporate bond rate on the company's public and private bonds, as we determined that the GOK did not control the Korean domestic bond market after 1991, and that domestic bonds may serve as an appropriate benchmark interest rate. *See Plate in Coils*, 64 FR at 15531. Where unavailable, we use the national average of the yields on three-year corporate bonds, as reported by the Bank of Korea (BOK). We note that the use of the three-year corporate bond rate from the BOK follows the approach taken in *Plate in Coils*, in which we determined that, absent company–specific interest rate information, the corporate bond rate is the best indicator of a market rate for won–denominated long–term loans in Korea. *Id.*

I. Program Preliminarily Determined to Confer Subsidies

The GOK's Direction of Credit

1. Loans Received through 2005

In the most recently completed CVD proceeding involving Korea, the Department reaffirmed earlier determinations that the GOK controlled and directed lending to Korean steel producers through year 2005. *See Notice of Final Results of Countervailing Duty Administrative Review: Certain Cut–to-Length Carbon–Quality Steel Plate from Korea*, 72 FR 38565 (July 13, 2007) (*2005 CTL Plate Final Results*). In addition, in that review, the Department noted that neither the respondent nor the GOK provided any new information that would warrant a change in the Department's determination. Finding that the GOK did not act to the best of its ability, the Department employed an adverse inference and determined that the GOK continued its direction–of-credit policies with respect to the Korean steel industry for the period 2002 through 2005. *Id.*

During the POR, DMC had outstanding loans that were received prior to and/or during the 2005 period. As in the prior proceedings, we asked the GOK for information pertaining to the GOK's direction–of-credit policies through 2005. The GOK did not provide any new or additional information that would warrant a departure from these prior findings, stating instead that:

> the Government of Korea continues to believe that the evidence demonstrates that there has been no direction of credit to the Korean steel industry. Nevertheless, the Department has consistently found that long–term loans received by Korean steel producers were the result of the Korean Government's direction, despite the Government's repeated submission of evidence to the contrary. . . . Consequently, in this review, the Government will not contest the Department's findings on direction of long–term loans.

Because the GOK withheld the requested information on its lending policies, the Department does not have the necessary information on the record to determine whether the GOK has continued its direction–of-credit policies with respect to the Korean steel industry through 2005; therefore, the Department must base its determination on facts otherwise available. *See* section 776(a)(2)(A) of the Tariff Act of 1930, as amended (the Act).

Section 776(b) of the Act further provides that the Department may use an adverse inference in applying the facts otherwise available when a party has failed to cooperate by not acting to the best of its ability to comply with a request for information. Section 776(b) of the Act also authorizes the Department to use as adverse facts available (AFA) information derived from the petition, the final determination, a previous administrative review, or other information placed on the record. For the reasons discussed below, we determine that, in accordance with sections 776(a)(2) and 776(b) of the Act, the use of AFA is appropriate for the preliminary results for the determination of direction of credit for loans received through 2005.

In this case, the GOK refused to supply requested information that was in its possession, even though the GOK had provided similar information in prior proceedings. *See, e.g., Final Affirmative Countervailing Duty Determination: Certain Cut–to-Length Carbon–Quality Steel Plate from the Republic of Korea*, 64 FR 73176, 73178 (December 29, 1999). Therefore, consistent with sections 776(a)(2)(A) and 776(b) of the Act, we find that the GOK did not act to the best of its ability and, therefore, we are employing an adverse inference in selecting from among the facts otherwise available. As AFA, we find that the GOK's direction–of-credit policies for the steel industry continued through 2005. As noted above, the GOK's direction–of-credit policies with respect to the Korean steel industry provide a financial contribution, confer a benefit, and are specific, pursuant to sections 771(5)(D)(i), 771(5)(E)(ii), and 771(5A)(D)(iii) of the Act, respectively. Therefore, we find that lending to Korean steel producers from domestic banks and government–owned banks through 2005 is countervailable. Thus, any loans received by Korean steel producers through 2005 from domestic banks and government–owned banks that were outstanding during the POR are countervailable, to the extent that the interest amount paid on the loan is less than what would have been paid on a comparable commercial loan. The Department's decision to rely on adverse inferences when lacking a response from the GOK regarding the

direction of credit issue, as it applies to the Korean steel industry, is in accordance with its practice. *See 2005 CTL Plate Final Results*.

2. Calculation of the Benefit and Net Subsidy Rate Under the Direction of Credit Program

In accordance with 19 CFR 351.505(c)(2) and (4), we calculated the benefit for each fixed- and variable–rate loan received from GOK–owned or -controlled banks to be the difference between the actual amount of interest paid on the directed loan during the POR and the amount of interest that would have been paid during the POR at the benchmark interest rate. We conducted our benefit calculations using the benchmark interest rates described in the ''Subsidies Valuation Information'' section above. For foreign currency–denominated loans, we converted the benefits into Korean won using exchange rates obtained from the BOK or, where BOK rates were not available, from other publicly available sources. We then summed the benefits from each company's long–term fixed–rate and variable–rate won–denominated loans.

To calculate the net subsidy rate, we divided DMC's total benefit by its total f.o.b. sales values during the POR, as this program is not tied to exports or a particular product. On this basis, we preliminarily determine the net subsidy rate to be 0.03 percent *ad valorem* for DMC.

II. Programs Preliminarily Determined To Be Not Used

A. Investment Tax Credits under RSTA Articles 11, 24, 25 and TERCL Articles 24 and 71
B. Reserve for Export Loss under Article 16 of TERCL
C. Reserve for Overseas Market Development under Article 17 of TERCL
D. Asset Revaluation under Article 56(2) of TERCL
E. Equipment Investment to Promote Worker's Welfare under Article 88 of TERCL
F. Special Cases of Tax for Balanced Development Among Areas under Articles 41–45 of TERCL
G. Requested Loan Adjustment Program
H. Emergency Load Reduction Program
I. Export Industry Facility Loan
J. Special Facility Loans
K. Energy Saving Facility Program
L. Research and Development Grants
M. Local Tax Exemption on Land Outside of Metropolitan Area
N. Short–Term Export Financing
O. Exemption of VAT on Imports of Anthracite Coal
P. Excessive Duty Drawback
Q. Special Depreciation of Assets on Foreign Exchange Earnings
R. Export Insurance Rates Provided by the Korean Export Insurance Corporation
S. Loans from the National Agricultural Cooperation Federation
T. Tax Incentives for Highly Advanced Technology Businesses under the Foreign Investment and Foreign Capital Inducement Act

III. Programs Preliminarily Determined To Be Not Countervailable

A. Tax Credit for Improving Enterprise's Bill System under Article 7–2 of RSTA
B. Tax Credit for Equipment to Promote Worker's Welfare under Article 94 of RSTA
C. Tax Deduction for Boosting Employment under Article 30–4 of RSTA

Preliminary Results of Review

In accordance with 19 CFR 351.221(b)(4)(i), we calculated an individual subsidy rate for the producer/exporter subject to this administrative review. For the period January 1, 2005, through December 31, 2005, we preliminarily determine the net subsidy for DMC to be 0.03 percent *ad valorem*, which is *de minimis*. *See* 19 CFR 351.106(c)(1).

The Department intends to issue assessment instructions to U.S. Customs and Border Protection (''CBP'') 15 days after the date of publication of the final results of this review. If the final results remain the same as these preliminary results, the Department will instruct CBP to liquidate without regard to countervailing duties all shipments of subject merchandise produced by DMC, entered, or withdrawn from warehouse, for consumption from January 1, 2005, through December 31, 2005. The Department will also instruct CBP not to collect cash deposits of estimated countervailing duties on shipments of the subject merchandise produced by DMC and Dongbu, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

If the final results of this review remain the same as these preliminary results, the Department intends to instruct U.S. Customs and Border Protection (CBP), 15 days after the date of publication of the final results, to liquidate shipments of certain stainless steel sheet and strip in coils from DMC, entered, or withdrawn from warehouse, for consumption from January 1, 2005, through December 31, 2005, without regard to countervailing duties. Also, the Department intends to instruct CBP not to collect deposits of estimated countervailing duties on shipments of certain stainless steel sheet and strip in coils from DMC, entered, or withdrawn from warehouse, for consumption on or after the publication of the final results of this administrative review. The Department will issue appropriate instructions directly to CBP within 15 days of the final results of this review.

We will instruct CBP to continue to collect cash deposits for non–reviewed companies at the most recent company–specific or country–wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to companies covered by this order, but not examined in this review, are those established in the most recently completed administrative proceeding for each company. These rates shall apply to all non–reviewed companies until a review of a company assigned these rates is requested.

Public Comment

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within five days after the date of the public announcement of this notice. Pursuant to 19 CFR 351.309, interested parties may submit written comments in response to these preliminary results. Unless otherwise indicated by the Department, case briefs must be submitted within 30 days after the publication of these preliminary results. Rebuttal briefs, which are limited to arguments raised in case briefs, must be submitted no later than five days after the time limit for filing case briefs, unless otherwise specified by the Department. Parties who submit arguments in this proceeding are requested to submit with the argument: (1) a statement of the issue, and (2) a brief summary of the argument. Parties submitting case and/or rebuttal briefs are requested to provide the Department copies of the public version on disk. Case and rebuttal briefs must be served on interested parties in accordance with 19 CFR 351.303(f). Also, pursuant to 19 CFR 351.310, within 30 days of the date of publication of this notice, interested parties may request a public hearing on

arguments to be raised in the case and rebuttal briefs. Unless the Secretary specifies otherwise, the hearing, if requested, will be held two days after the date for submission of rebuttal briefs.

Representatives of parties to the proceeding may request disclosure of proprietary information under administrative protective order no later than 10 days after the representative's client or employer becomes a party to the proceeding, but in no event later than the date the case briefs, under 19 CFR 351.309(c)(ii), are due. The Department will publish the final results of this administrative review, including the results of its analysis of issues raised in any case or rebuttal brief or at a hearing.

These preliminary results of review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: August 31, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E7–17748 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Federal Consistency Appeal by AES Sparrows Point LNG, LLC and Mid-Atlantic Express, L.L.C.

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (Commerce).

ACTION: Notice of appeal.

SUMMARY: This announcement provides notice that AES Sparrows Point LNG, LLC and Mid-Atlantic Express, L.L.C. (collectively, ''AES'') have filed an administrative appeal with the Department of Commerce asking that the Secretary override the State of Maryland's objection to AES's proposed LNG terminal in Baltimore County, Maryland.

ADDRESSES: Materials from the appeal record will be available at the NOAA Office of the General Counsel for Ocean Services, 1305 East-West Highway, Room 6111, Silver Spring, MD 20910 and on the following Web site: *http://www.ogc.doc.gov/czma.htm.*

FOR FURTHER INFORMATION CONTACT: Odin Smith, Attorney-Advisor, NOAA Office of the General Counsel, 301–713–7392.

SUPPLEMENTARY INFORMATION:

I. Notice of Appeal

AES has filed a notice of appeal with the Secretary of Commerce pursuant to the Coastal Zone Management Act of 1972 (CZMA), 16 U.S.C. 1451 *et seq.*, and implementing regulations found at 15 CFR part 930, subpart H. AES appeals an objection, filed by the State of Maryland, to a consistency determination prepared by AES related to its proposed LNG terminal project in Baltimore County, Maryland.

Under the CZMA, the Secretary may override the State's objection on grounds that the project is consistent with the objectives or purposes of the CZMA, or necessary in the interest of national security. To make the determination that the proposed activity is ''consistent with the objectives or purposes'' of the CZMA, the Secretary must find that: (1) The proposed activity furthers the national interest as articulated in sections 302 or 303 of the CZMA, in a significant or substantial manner; (2) the adverse effects of the proposed activity do not outweigh its contribution to the national interest, when those effects are considered separately or cumulatively; and (3) no reasonable alternative is available that would permit the activity to be conducted in a manner consistent with enforceable policies of the State's coastal management program. 15 CFR 930.121. To make the determination that the proposed activity is ''necessary in the interest of national security,'' the Secretary must find that a national defense or other national security interest would be significantly impaired were the proposed activity not permitted to go forward as proposed. 15 CFR 930.122.

II. Appeal Documents

NOAA intends to provide the public with access to all publicly available materials and related documents comprising the appeal record during business hours, at the NOAA Office of the General Counsel for Ocean Services.

For additional information about this appeal contact Odin Smith, 301–713–7392.

Dated: September 5, 2007.

Joel La Bissonniere,

Assistant General Counsel for Ocean Services.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Assistance.]

[FR Doc. 07–4416 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 070727423–7424–01]

RIN 0648–XB75

Endangered and Threatened Species; Notice of Finding on a Petition to List the Lynn Canal Stock of Pacific Herring as a Threatened or Endangered Species

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

ACTION: Notice of petition finding; request for information; and initiation of status review.

SUMMARY: On April 2, 2007, we, NMFS, received a petition to list the Lynn Canal (Alaska) stock of Pacific herring, *Clupea pallasi*, as a threatened or endangered species under the Endangered Species Act (ESA). After review, we find that the petition presents substantial scientific and commercial information indicating that the petitioned action may be warranted.

We are initiating a review of the status of the Lynn Canal population of Pacific herring, and we request data, information, and comment on the subject action. Specifically, we are soliciting information regarding population structure and stock delineations of Pacific herring in Southeast Alaska, the Gulf of Alaska, and the North Pacific Ocean; population trends and ecology of Pacific herring in Lynn Canal and Southeast Alaska waters; habitat requirements and current habitat conditions; known and anticipated threats to the viability of the population; and efforts being made to protect the species.

DATES: Information and comments should be submitted to NMFS by December 10, 2007.

ADDRESSES: Data, information, or comments may be submitted to Kaja Brix, Assistant Regional Administrator, Protected Resources Division, Alaska Region, NMFS, Attn: Ellen Sebastian.

Information may be submitted by any of the following methods:

- Mail: P.O. Box 21668, Juneau, AK 99802;
- Hand delivery to the Federal Building: 709 West 9th Street, Juneau, AK, 99802;
- Fax: (907) 586–7557;
- E-mail: *LCHERRING@noaa.gov*.

Include in the subject line of the e-mail the following identifier: Lynn Canal Herring. E-mail comments, with or

without attachments, are limited to five megabytes.

Interested persons may obtain a copy of the petition from the above address or online from the NMFS Alaska Region website: *http://www.fakr.noaa.gov/protectedresources*.

FOR FURTHER INFORMATION CONTACT: Erika Phillips, NMFS Alaska Region, telephone (907) 586–7312, Kaja Brix, NMFS Alaska Region, (907)586–7235, or Marta Nammack, NMFS, Office of Protected Resources, (301) 713–1401.

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) requires that we determine whether or not a petition to list a species presents substantial scientific and commercial information to demonstrate that the petitioned action may be warranted. Joint ESA-implementing regulations between NMFS and U.S. Fish and Wildlife Service (50 CFR 424.14) define ''substantial information'' as the amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.

In making a finding on a petition to list a species, the Secretary of Commerce (Secretary) must consider whether the petition: (i) clearly indicates the administrative measure recommended and gives the scientific and any common name of the species involved; (ii) contains detailed narrative justification for the recommended measure, describing, based on available information, past and present numbers and distribution of the species involved and any threats faced by the species; (iii) provides information regarding the status of the species over all or a significant portion of its range; and (iv) is accompanied by the appropriate supporting documentation in the form of bibliographic references, reprints of pertinent publications, copies of reports or letters from authorities, and maps (50 CFR 424.14(b)(2)). To the maximum extent practicable, this finding is to be made within 90 days of the date the petition was received, and the finding is to be published promptly in the **Federal Register**. When it is found that substantial information is presented in the petition, we are required to promptly commence a review of the status of the species concerned. Within 1 year of receipt of the petition, we shall conclude the review with a finding as to whether or not the petitioned action is warranted.

On April 2, 2007, we received a petition to designate the Lynn Canal Stock of Pacific herring (*Clupea pallasi*) as a Distinct Population Segment (DPS) and to list the DPS as threatened or endangered under the ESA. The petition was submitted by the Juneau Group of the Sierra Club, Juneau, Alaska. The Petitioner also requested that critical habitat be designated for Lynn Canal Pacific herring concurrent with listing under the ESA. The petitioner may provide information that describes any recommended critical habitats to boundaries and physical features, and indicates any benefits and/or adverse effects on the species that would result from such designation. Such information, however, will not be the basis for the determination of the substantiality of the petition (50 CFR 424.14(b)(2)(iv)).

We have reviewed the petition, the literature cited in the petition, and other literature and information available in our files. On the basis of that information, we find that the petition meets the aforementioned requirements of the regulations under 50 CFR 424.14(b)(2) and therefore determine that the petition presents substantial information indicating that the requested listing action may be warranted. Our finding is based in part on: (1) documented population trends, which indicate an 85 percent decline in estimated biomass since the 1970s; (2) evidence that the Lynn Canal population has remained depressed for more than 2 decades, failing to show signs of rebound despite closure of the commercial fishery from 1982 to present; (3) documented losses of spawning habitat and abandonment of degraded spawning grounds at the southern end of the historic spawning range for the stock, such that spawning activity is compressed to the area in and around Berners Bay, Alaska; and (4) proposed development activities in Lynn Canal, including Berners Bay, that threaten to further modify or curtail the population's habitat and spawning range. Specifically, our analysis of available data on Lynn Canal herring from 1971 through 2002 indicates that spawning biomass declined from an average of 4866 tons for the period from1972 through1980 to an average of 692 tons of spawning biomass for the period from 1990 through 2002. This suggests that Lynn Canal spawning biomass has declined approximately 85 percent since the 1970s. These biomass estimates are based on measurements of shoreline miles of spawn, which have declined from an average of 12 nautical miles from 1953 through 1981 down to an average of 3.5 nautical miles from 1982 through 2003.

Stock Structure and Distinct Population Segments for Pacific Herring

The petitioner provided references that demonstrate that natural stock structure exists for Pacific herring in the Gulf of Alaska and the northern Pacific Ocean. The petitioner also noted that life history differences (e.g., spawning timing, seasonal migration patterns, length-at-age and growth rates), morphological distinctions, and geographic isolation may contribute to population discreteness. Pacific herring stocks in Southeast Alaska have not been examined in detail for population discreteness, but several studies conducted in the North Pacific may help shed light on whether DPSs are present in Southeast Alaska.

2001 Status Review of Pacific Herring

In 2001, we completed a status review of Pacific herring in response to a petition to list 18 species of marine fishes in Puget Sound, including Pacific herring. Through that process, the Biological Review Team (BRT) reviewed Pacific herring life history, genetics data, information on larval distribution and transport, tagging studies and other information on herring stocks throughout the eastern North Pacific. The BRT concluded that the Pacific herring stocks in Puget Sound do not constitute a DPS as defined under the ESA, but instead are part of a larger, regional Georgia Basin DPS. The Georgia Basin DPS extends from the southern end of Puget Sound to the northern end of the Strait of Georgia and the north end of Vancouver Island and includes the Strait of Juan de Fuca. The BRT did not analyze or describe additional DPS structure beyond the Georgia Basin region.

2005 Status Review of the Cherry Point Stock of Pacific Herring

In 2005, we completed a status review for the Cherry Point stock of Pacific herring in response to a petition to list the stock as a threatened or endangered DPS under the ESA. The BRT based its DPS analysis on the findings of the 2001 Pacific herring status review and new information, including new genetics data. Through the 2005 status review process, the BRT determined that the Cherry Point stock is not a separate DPS, but instead is part of the larger Georgia Basin Pacific herring DPS. Although some of the life history and genetics data analyzed by the BRT included information on Pacific herring stocks in Southeast Alaska, the team did not

describe additional DPS structure beyond the Georgia Basin region.

Status Review for Lynn Canal Pacific Herring

Subsequent to publishing this finding, we will commence a status review to determine whether the petitioned action is warranted. To ensure that the review is complete and is based on the best available scientific and commercial data, we request any available information regarding the taxonomy and status of the Lynn Canal stock of Pacific herring, its habitat, biology, movements and distribution, stock structure and age composition, threats to the species, or other pertinent information.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 4, 2007.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. E7–17779 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC38

Marine Mammals; File No. 1034–1854

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

ACTION: Notice; receipt of application for amendment.

SUMMARY: Notice is hereby given that Markus Horning, Department of Fisheries & Wildlife, Oregon State University, Hatfield Marine Science Center, 2030 SE Marine Science Drive, Newport, OR 97365, has requested an amendment to scientific research Permit No. 1034–1854.

DATES: Written, telefaxed, or e-mail comments must be received on or before October 10, 2007

ADDRESSES: The amendment request and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

Written comments or requests for a public hearing on this request should be submitted 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 amendment request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, 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. 1034–1854.

FOR FURTHER INFORMATION CONTACT: Amy Sloan or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment to Permit No. 1034–1854, issued on September 18, 2006 (71 FR 56110) is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216).

Permit No. 1034–1854 authorizes the permit holder to conduct research on Weddell seals (*Leptonychotes weddellii*) to compare oxygen handling, body condition, muscle physiology, and foraging behavior in young adults and old adults. A total of 48 animals may have the following procedures performed: capture, sedation; morphometrics; ultrasound; blood and muscle samples taken; administration of Evans blue dye and deuterium oxide; external and internal data recorders deployed; release; recapture to add device to manipulate energy expenditure; and recapture to remove instruments. Up to 250 animals seals may be incidentally harassed during these activities. The permit expires on September 30, 2011.

The permit holder requests authorization to (1) increase the number of sequential blood samples from animals with Evans blue dye administered from three to five samples for accurate plasma volume determinations; (2) leave the satellite data transmitters on adult females until they fall off no later than the annual molt, rather than removing them at the end of the field season, for the purpose of recording more dives and increasing the power of age group dive behavior comparisons; and (3) opportunistically attach satellite transmitters to selected adult females older than 21 years when first encountered, for subsequent recapture, sampling, and outfitting with remaining telemetry devices. The permit holder requests pre-tagging older females because of the difficulty in encountering adult, non-pregnant and non-lactating females older than 21 years. Such tagged females could be tracked and captured to be fully included in the experiments when all sampling equipment was in place. No changes to the number of animals permitted, or handling durations during procedures, are proposed. The permit holder also proposes to collect opportunistic fecal samples and import them into the U.S. for fecal corticosterone analysis to determine individual animal stress levels.

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: September 4, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–17776 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC37

Marine Mammals; File No. 1032–1917

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

ACTION: Notice; issuance of permit.

SUMMARY: Notice is hereby given that Robert A. Garrott, Ecology Department, Montana State University, 310 Lewis Hall, Bozeman, MT, 59717 has been issued a permit to conduct research on Weddell seals (Leptonychotes weddellii).

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room

13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213; phone (562)980–4001; fax (562)980–4018.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Tammy Adams, (301)713–2289.

SUPPLEMENTARY INFORMATION: On May 15, 2007, notice was published in the **Federal Register** (72 FR 27292) that a request for a scientific research permit to take the species listed above had been submitted by the above-named individual. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216),

The purpose of the research is to evaluate how temporal variation in the marine environment affects a long-lived mammal's population dynamics. The applicant proposes to continue long-term studies of the Weddell seal population in the Erebus Bay, McMurdo Sound, Ross Sea, and White Island areas of Antarctica. Up to 325 adults and 800 pups will be captured annually. Animals will be weighed, tissued sampled, flipper tagged, and released. Annually up to 2000 Weddell, 50 crabeater (*Lobodon carcinophagus*), and 50 leopard (*Hydrurga leptonyx*) seals may be incidentally disturbed as a result of the research activities. The permit authorizes up to 4 (2 adults and 2 pups) Weddell seal research-related mortalities annually. The permit is valid for five years.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: September 5, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–17777 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC27

Small Takes of Marine Mammals Incidental to Specified Activities; Low-Energy Marine Seismic Survey in the Northeastern Pacific Ocean, September 2007

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

ACTION: Notice; issuance of incidental harassment authorization.

SUMMARY: In accordance with the Marine Mammal Protection Act (MMPA) regulations, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to Scripps Institution of Oceanography (SIO) for the take of marine mammals, by Level B harassment only, incidental to conducting a low-energy marine seismic survey in the northeastern Pacific Ocean during September, 2007.

DATES: Effective September 5, 2007, through September 30, 2007.

ADDRESSES: A copy of the IHA and application are available by writing to P. Michael Payne, Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning the contact listed here. A copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications*. Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Candace Nachman or Jolie Harrison, Office of Protected Resources, NMFS, (301) 713–2289.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Authorization shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring, and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the U.S. can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as:

> any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Section 101(a)(5)(D) establishes a 45–day time limit for NMFS review of an application followed by a 30–day public notice and comment period on any proposed authorizations for the incidental harassment of marine mammals. Within 45 days of the close of the comment period, NMFS must either approve or deny the authorization.

Summary of Request

On May 4, 2007, NMFS received an application from SIO for the taking, by Level B harassment only, of eight species of marine mammals incidental to conducting, with research funding from the National Science Foundation (NSF), an ocean-bottom seismograph (OBS) deployment and a magnetic, bathymetric, and seismic survey program off the Oregon coast in the northeastern Pacific Ocean during September, 2007. The purpose of the research program was outlined in NMFS' notice of the proposed IHA (72 FR 42045, August 1, 2007).

Description of the Activity

The seismic surveys will involve one vessel, the R/V *Wecoma* (*Wecoma*), which is scheduled to depart from Newport, OR on September 5, 2007 and return on September 11, 2007. The exact dates of the activities may vary by a few days because of weather conditions, repositioning, OBS and streamer operations and adjustments, GI-gun deployment, or the need to repeat some lines if data quality is substandard. The seismic surveys will take place off the Oregon coast in the northeastern Pacific Ocean. The overall area within which the seismic surveys will occur is located between approximately 44° and 45° N. and 124.5° and 126o W. (Figure 1 in the application). The surveys will occur approximately 25–110 km (15.5–68.4 mi) offshore from Oregon in water depths between approximately 110 and 3,050 m (361 and 10,007 ft), entirely within the Exclusive Economic Zone of the U.S.

The *Wecoma* will deploy a single low-energy Generator-Injector (GI) airgun as an energy source (with a discharge volume of 45 in^3), 16 OBSs that will remain in place for a year, and a 300 m-long (984 ft-long), 16–channel, towed hydrophone streamer. The program will consist of approximately 21 km (13 mi) of surveys over each of the 16 OBSs. The GI gun will be operated on a small grid for approximately 2 hours at each of 16 OBS sites over an approximately 7–day period during September, 2007. In addition to the operations of the GI gun, a 3.5–kHz sub-bottom profiler, a Knudsen 320BR sub-bottom profiler, and a magnetometer may be run on the transit between OBS locations.

A more detailed description of the authorized action, including vessel and acoustic source specifications, was included in the notice of the proposed IHA (72 FR 42045, August 1, 2007).

Safety Radii

Received sound levels have been modeled by Lamont-Doherty Earth Observatory (L-DEO) for a number of airgun configurations, including one 45–in^3 GI gun, in relation to distance and direction from the airgun(s). The model does not allow for bottom interactions and is most directly applicable to deep water. Based on the modeling, estimates of the maximum distances from the GI gun where sound levels of 190, 180, and 160 dB re 1 μPa (rms) are predicted to be received in deep (>1000–m, 3280–ft) water are 8, 23, and 220 m (26.2, 75.5, and 721.8 ft), respectively and 12, 35, and 330 m (39.4, 115, and 1,082.7 ft), respectively for intermediate water depths (100–1000m, 328–3,280 ft). Because the model results are for a 2.5–m (8.2–ft) tow depth, the above distances slightly underestimate the distances for the 45–in3 GI gun towed at 4–m (13–ft) depth.

A general discussion of acoustic thresholds and safety radii, as well as further discussion of the modeling conducted by L-DEO, was included in the notice of the proposed IHA (72 FR 42045, August 1, 2007).

Comments and Responses

A notice of receipt of the SIO application and proposed IHA was published in the **Federal Register** on August 1, 2007 (72 FR 42045). During the comment period, NMFS received comments from the Marine Mammal Commission (MMC) and one individual. One individual expressed the opinion that this authorization should be denied because this type of activity is much more harmful than the ''profiteers'' admit, causing extreme harm to the animals, such as brain hemorrhages which cause the death of the animals. No supporting information was provided for these assertions, and NMFS believes that the contrary analyses presented in the EA and **Federal Register** Notice remain correct.

MMC Comment: The MMC states that because the applicant is requesting authority to take marine mammals by harassment only, NMFS should require that operations be suspended immediately if a dead or seriously injured marine mammal is found in the vicinity of the operations and the death or injury could have occurred incidental to the seismic survey. The MMC further recommends that any such suspension should remain in place until NMFS has: (1) reviewed the situation and determined that further mortalities or serious injuries are unlikely to occur; or (2) issued regulations authorizing such takes under section 101(a)(5)(A) of the MMPA.

Response: NMFS concurs with MMC's recommendations and has included a requirement to this effect in the IHA.

Description of Marine Mammals in the Activity Area

Thirty-two marine mammal species, including 19 odontocete (dolphins and small and large toothed whales) species, seven mysticete (baleen whales) species, five pinniped species, and the sea otter, may occur or have been documented to occur in the marine waters off Oregon and Washington, excluding extralimital sightings or strandings (Table 1 here). Six of the species that may occur in the project area are listed under the U.S. Endangered Species Act (ESA) as Endangered, including sperm, humpback, blue, fin, sei, and North Pacific right whales. One other species listed as Threatened may occur in the project area: the Steller sea lion.

Additional information regarding the status and distribution of the marine mammals in the area and how the densities were calculated was included in the notice of the proposed IHA (72 FR 42045, August 1, 2007) and may be found in SIO's application.

Species	Habitat	Abundance[1]	Auth Take
Mysticetes			
North Pacific right whale (Eubalaena japonica) *	Inshore, occasionally offshore	N.A.[2]	0
Humpback whale (Megaptera novaeangliae) *	Mainly nearshore waters and banks	1391	0
Minke whale (Balaenoptera acutorostrata)	Pelagic and coastal	1015	0
Sei whale (Balaenoptera borealis) *	Primarily offshore, pelagic	56	0
Fin whale (Balaenoptera physalus) *	Continental slope, mostly pelagic	3279	0
Blue whale (Balaenoptera musculus) *	Pelagic and coastal	1744	0
Odontocetes			
Sperm whale (Physeter macrocephalus) *	Usually pelagic and deep seas	1233	0

Species	Habitat	Abundance[1]	Auth Take
Pygmy sperm whale (Kogia breviceps)	Deep waters off the shelf	247	1
Dwarf sperm whale (Kogia sima)	Deep waters off the shelf	N.A.	0
Cuvier's beaked whale (Ziphius cavirostris)	Pelagic	1884	0
Baird's beaked whale (Berardius bairdii)	Pelagic	228	0
Blainville's beaked whale (Mesoplodon densirostris)	Slope, offshore	1247 [3]	0
Hubb's beaked whale (Mesoplodon carlhubbsi)	Slope, offshore	1247 [3]	0
Stejneger's beaked whale (Mesoplodon stejnegeri)	Slope, offshore	1247 3	0
Offshore bottlenose dolphin (Tursiops truncatus)	Offshore, slope	5,065	0
Striped dolphin (Stenella coeruleoalba)	Off continental shelf	13,934	0
Short-beaked common dolphin (Delphinus delphis)	Shelf and pelagic, seamounts	449,846	4
Pacific white-sided dolphin (Lagenorhynchus obliquidens)	Offshore, slope	59,274	6
Northern right whale dolphin (Lissodelphis borealis)	Slope, offshore waters	20,362	5
Risso's dolphin (Grampus griseus)	Shelf, slope, seamounts	16,066	3
False killer whale (Pseudorca crassidens)	Pelagic, occasionally inshore	N.A.	0
Killer whale (Orcinus orca)	Widely distributed	466 (Offshore)	0
Short-finned pilot whale (Globicephala macrorhynchus)	Mostly pelagic, high-relief topography	304	0
Harbor porpoise (Phocoena phocoena)	Coastal and inland waters	39,586 (OR/WA)	0
Dall's porpoise (Phocoenoides dalli)	Shelf, slope, offshore	99,517	39
Pinnipeds			
Northern fur seal (Callorhinus ursinus)	Pelagic, offshore	688,028 [2]	3
California sea lion (Zalophus californianus californianus)	Coastal, shelf	237,000-244,000	0
Steller sea lion (Eumetopias jubatus) *	Coastal, shelf	44,996 [2] Eastern US	0
Harbor seal (Phoca vitulina richardsi)	Coastal	24,732 (OR/WA)	1
Northern elephant seal (Mirounga angustirostris)	Coastal, pelagic when migrating	101,000 (CA)	0

Table 1. Species expected to be encountered (and potentially harassed) during SIO's Pacific Ocean cruise. The far right column indicates the number of takes authorized by the IHA.
N.A. - Data not available or species status was not assessed.
* Species are listed as threatened or endangered under the Endangered Species Act.
[1] Abundance given for U.S., Eastern North Pacific, or California/Oregon/Washington Stock, whichever is included in the 2005 U.S. Pacific Marine Mammal Stock Assessments (Carretta et al. 2006), unless otherwise stated.
[2] Angliss and Outlaw (2005).
[3] All mesoplodont whales

Potential Effects on Marine Mammals

The effects of sounds from airguns might include one or more of the following: tolerance, masking of natural sounds, behavioral disturbance, and temporary or permanent hearing impairment or non-auditory physical or physiological effects (Richardson *et al.*, 1995; Gordon *et al.*, 2004). To avoid injury, NMFS has determined that cetaceans and pinnipeds should not be exposed to pulsed underwater noise at received levels exceeding, respectively, 180 and 190 dB re 1 μPa (rms). The predicted 180- and 190–dB distances for the GI gun operated by SIO are 35 m (115 ft) and 12 m (39.4 ft), respectively, for intermediate water depths and 23 m (75.5 ft) and 8 m (26.2 ft), respectively, for deep water. Given the small size of the gun (one 45–in^3 GI gun) planned for the present project and the required mitigation and monitoring measures, effects are anticipated to be considerably less than would be the case with a large array of airguns. It is very unlikely that there would be any cases of temporary or, especially, permanent hearing impairment or any

significant non-auditory physical or physiological effects. Also, behavioral disturbance is expected to be limited to relatively short distances.

The notice of the proposed IHA (72 FR 42045, August 1, 2007) included a discussion of the effects of sounds from airguns on mysticetes, odontocetes, and pinnipeds, including tolerance, masking, behavioral disturbance, hearing impairment, and other non-auditory physical effects. Additional information on the behavioral reactions (or lack thereof) by all types of marine mammals to seismic vessels can be found in Appendix A (e) of SIO's applicaiton.

The notice of the proposed IHA also included a discussion of the potential effects of the sub-bottom profiler. Because of the shape of the beams and the power of the bottom profiler, NMFS believes it unlikely that marine mammals will be exposed to the sub-bottom profiler at levels at or above those likely to cause harassment.

Estimated Take by Incidental Harassment

The notice of the proposed IHA (72 FR 42045, August 1, 2007) included an in-depth discussion of the methods used to calculate the densities of the marine mammals in the area of the seismic survey and the take estimates. Additional information was included in SIO's application. A summary of the total take authorized is included here.

All anticipated takes authorized by this IHA are Level B harassment only, involving temporary changes in behavior. The far right column in Table 1, ''Auth Take'', displays the numbers for which take is authorized. Take calculations were based on maximum exposure estimates (based on maximum density estimates) vs. best estimates and are based on the 160–dB isopleth of a larger array of airguns. Given these considerations, the predicted number of marine mammals that might be exposed to sounds 160 dB may be somewhat overestimated.

Extensive systematic aircraft- and ship-based surveys have been conducted for marine mammals offshore of Oregon and Washington (Bonnell *et al.*, 1992; Green *et al.*, 1992, 1993; Barlow, 1997, 2003; Barlow and Taylor, 2001; Calambokidis and Barlow, 2004). The most comprehensive and recent density data available for cetacean species off slope and offshore waters of Oregon are from the 1996 and 2001 NMFS SWFSC ''ORCAWALE'' ship surveys as synthesized by Barlow (2003). The surveys were conducted from late July to early November (1996) or early December (2001). They were conducted up to approximately 556 km (1,824 ft) offshore from Oregon and Washington. Systematic, offshore, at-sea survey data for pinnipeds are more limited. The most comprehensive such studies are reported by Bonnell *et al.* (1992) and Green *et al.* (1993) based on systematic aerial surveys conducted in 1989 1990 and 1992, primarily from coastal to slope waters with some offshore effort as well.

Since the take estimates authorized in this IHA are no more than 0.4 percent of any cetacean species and no more than 0.01 percent of any pinniped species found along the Oregon coast, NMFS believes that the estimated take numbers for these species and stocks are small relative to both the worldwide abundance of these species and to numbers taken in other activities that have been authorized for incidental take of these species.

Potential Effects on Habitat

A detailed discussion of the potential effects of this action on marine mammal habitat, including physiological and behavioral effects on marine fish and invertebrates, was included in the notice of the proposed IHA (72 FR 42045, August 1, 2007). Based on the discussion in the proposed IHA and the nature of the activities (small airgun and limited duration), the authorized operations are not expected to have any habitat-related effects that could cause significant or long-term consequences for individual marine mammals or their populations or stocks.

Monitoring

Vessel-based marine mammal visual observers (MMVOs) will be based aboard the seismic source vessel and will watch for marine mammals near the vessel during all daytime GI gun operations and during start-ups of the gun at night. MMVOs will also watch for marine mammals near the seismic vessel for at least 30 minutes prior to the start of GI gun operations. When feasible, MMVOs will also make observations during daytime periods when the seismic system is not operating for comparison of animal abundance and behavior. Based on MMVO observations, the airgun will be shut down when marine mammals are observed within or about to enter a designated exclusion zone (EZ; safety radius). The EZ is a region in which a possibility exists of adverse effects on animal hearing or other physical effects.

MMVOs will be appointed by the academic institution conducting the research cruise, with NMFS Office of Protected Resources concurrence. At least one MMVO will monitor the EZ during daytime GI gun operations and any nighttime startups. MMVOs will normally work in shifts of 4 hours duration or less. The vessel crew will also be instructed to assist in detecting marine mammals.

The *Wecoma* is a suitable platform for marine mammal observations. Observing stations will be on the bridge wings, with observers' eyes approximately 6.5 m (21.3 ft) above the water line and a 180° view outboard from either side, on the whaleback deck in front of the bridge, with observers' eyes approximately 7.5 m (24.6 ft) above the waterline and an approximate 200° view forward, and on the aft control station, with observers' eyes approximately 5.5 m (18 ft) above the waterline and an approximate 180° view aft that includes the 40–m (131–ft; 180–dB) radius area around the GI gun. The eyes of the bridge watch will be at a height of approximately 6.5 m (21.3 ft). MMVOs will repair to the enclosed bridge during any inclement weather.

Standard equipment for MMVOs will be 7 x 50 reticule binoculars and optical range finders. At night, night-vision equipment will be available. Observers will be in wireless communication with ship officers on the bridge and scientists in the ship's operations laboratory, so they can advise promptly of the need for avoidance maneuvers or GI gun shut down.

MMVOs will record data to estimate the numbers of marine mammals exposed to various received sound levels and to document any apparent disturbance reactions. Data will be used to estimate the numbers of mammals potentially ''taken'' by harassment. It will also provide the information needed to order a shutdown of the GI gun when a marine mammal is within or near the EZ. When a mammal sighting is made, the following information about the sighting will be recorded:

(1) Species, group size, age/size/sex categories (if determinable), behavior when first sighted and after initial sighting, heading (if consistent), bearing and distance from seismic vessel, sighting cue, apparent reaction to the GI gun or seismic vessel (e.g., none, avoidance, approach, paralleling, etc.), and behavioral pace.

(2) Time, location, heading, speed, activity of the vessel (shooting or not), sea state, visibility, cloud cover, and sun glare.

The data listed under (2) will also be recorded at the start and end of each observation watch and during a watch, whenever there is a change in one or more of the variables.

All mammal observations and airgun shutdowns will be recorded in a standardized format. Data accuracy will be verified by the MMVOs at sea, and preliminary reports will be prepared during the field program and summaries forwarded to the operating institution's shore facility and to NSF weekly or more frequently. MMVO observations will provide the following information:

(1) The basis for decisions about shutting down the GI gun.

(2) Information needed to estimate the number of marine mammals potentially ''taken by harassment, which must be reported to NMFS.

(3) Data on the occurrence, distribution, and activities of marine mammals in the area where the seismic study is conducted.

(4) Data on the behavior and movement patterns of marine mammals seen at times with and without seismic activity.

Mitigation

Mitigation and monitoring measures proposed to be implemented for the proposed seismic survey have been developed and refined during previous SIO and L-DEO seismic studies and associated EAs, IHA applications, and IHAs. The mitigation and monitoring measures described herein represent a combination of the procedures required by past IHAs for other SIO and L-DEO projects. The measures are described in detail below.

The number of individual animals expected to be approached closely during the proposed activity will be small in relation to regional population sizes. With the proposed monitoring and shut-down provisions (see below), any effects on individuals are expected to be limited to behavioral disturbance and will have only negligible impacts on the species and stocks.

Mitigation measures that will be adopted will include: (1) vessel speed or course alteration, provided that doing so will not compromise operational safety requirements, (2) GI gun shut down, and (3) minimizing approach to slopes and submarine canyons, if possible, because of sensitivity of beaked whales. Two other standard mitigation measures airgun array power down and airgun array ramp up are not possible because only one, low-volume GI gun will be used for the surveys.

Speed or Course Alteration - If a marine mammal is detected outside the EZ but is likely to enter it based on relative movement of the vessel and the animal, then if safety and scientific objectives allow, the vessel speed and/or direct course will be adjusted to minimize the likelihood of the animal entering the EZ. Major course and speed adjustments are often impractical when towing long seismic streamers and large source arrays but are possible in this case because only one GI gun and a short (300–m, 984–ft) streamer will be used. If the animal appears likely to enter the EZ, further mitigative actions will be taken, i.e., either further course alterations or shut down of the airgun.

Shut-down Procedures - If a marine mammal is within or about to enter the EZ for the single GI gun, it will be shut down immediately. Following a shut down, GI gun activity will not resume until the marine mammal is outside the EZ for the full array. The animal will be considered to have cleared the EZ if it: (1) is visually observed to have left the EZ; (2) has not been seen within the EZ for 15 minutes in the case of small odontocetes and pinnipeds; or (3) has not been seen within the EZ for 30 minutes in the case of mysticetes and large odontocetes, including sperm, pygmy sperm, dwarf sperm, and beaked whales.

Minimize Approach to Slopes and Submarine Canyons - Although sensitivity of beaked whales to airguns is not known, they appear to be sensitive to other sound sources (mid-frequency sonar; see section IV of SIO's application). Beaked whales tend to concentrate in continental slope areas and in areas where there are submarine canyons. Avoidance of airgun operations over or near submarine canyons has become a standard mitigation measure, but there are none within or near the study area. Four of the 16 OBS locations are on the continental slope, but the GI gun is low volume (45 in3), and it will operate only a short time (approximately 2 hours) at each location.

Reporting

A report will be submitted to NMFS within 90 days after the end of the cruise. The report will describe the operations that were conducted and the marine mammals that were detected near the operations. The report will be submitted to NMFS, providing full documentation of methods, results, and interpretation pertaining to all monitoring. The 90–day report will summarize the dates and locations of seismic operations, all marine mammal sightings (dates, times, locations, activities, associated seismic survey activities), and estimates of the amount and nature of potential ''take'' of marine mammals by harassment or in other ways.

ESA

Pursuant to Section 7 of the ESA, the NSF has consulted informally with NMFS for this action since no take of listed species is anticipated or authorized. NMFS has also consulted internally pursuant to Section 7 of the ESA on the issuance of an IHA under Section 101(a)(5)(D) for this activity. NMFS Section 7 biologists issued a concurrence letter, which concluded that the risk of individuals listed under the ESA being adversely affected in this proposed project is reduced to discountable levels because of the: (1) type and short time frame of the proposed activity (single airgun source with nominal source level (peak to peak) of 230.7 dB re 1 μPa executed for a short period of time (16 sites, no more than two hours at each site, during a two week period); (2) unlikelihood of encountering listed species in the action area during the time of the proposed project; and (3) monitoring and minimization measures to be implemented as part of the proposed project.

National Environmental Policy Act (NEPA)

NSF prepared an Environmental Assessment of a Planned Low-Energy Marine Seismic Survey by the Scripps Institution of Oceanography in the Northeast Pacific Ocean, September 2007. NMFS has adopted NSF's EA and issued a Finding of No Significant Impact for the issuance of the IHA.

Determinations

NMFS has determined that the impact of conducting the seismic survey in the northeast Pacific Ocean may result, at worst, in a temporary modification in behavior (Level B Harassment) of small numbers of eight species of marine mammals. Further, this activity is expected to result in a negligible impact on the affected species or stocks. The provision requiring that the activity not have an unmitigable adverse impact on the availability of the affected species or stock for subsistence uses does not apply for this action.

This determination is supported by: (1) the likelihood that, given sufficient notice through relatively slow ship speed, marine mammals are expected to move away from a noise source that is annoying prior to its becoming potentially injurious; (2) the fact that marine mammals would have to be closer than either 35 m (115 ft) in intermediate depths or 23 m (75.5 ft) in deep water from the vessel to be exposed to levels of sound (180 dB) believed to have even a minimal chance

of causing TTS; and (3) the likelihood that marine mammal detection ability by trained observers is high at that short distance from the vessel. As a result, no take by injury or death is anticipated or authorized and the potential for temporary or permanent hearing impairment is very low and will be avoided through the incorporation of the required mitigation measures.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals in the vicinity of the survey activity, the number of potential harassment takings is estimated to be small, less than a percent of any of the estimated population sizes, and has been mitigated to the lowest level practicable through incorporation of the measures mentioned previously in this document.

Authorization

As a result of these determinations, NMFS has issued an IHA to SIO for conducting a low-energy seismic survey in the Pacific Ocean during September, 2007, provided the previously mentioned mitigation, monitoring, and reporting requirements are incorporated.

Dated: September 4, 2007,

Helen Golde,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–17775 Filed 9–7–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF DEFENSE

Office of the Secretary

Board of Visitors Meeting

AGENCY: Department of Defense.

ACTION: Defense Acquisition University Board of Visitors Meeting.

SUMMARY: The next meeting of the Defense Acquisition University (DAU) Board of Visitors (BoV) will be held at Defense Acquisition University, Mid-Atlantic Region, California, MD. The purpose of this meeting is to report back to the BoV on continuing items of interest.

DATES: September 26, 2007 from 0900–1500.

ADDRESSES: 23330 Cottonwood Parkway, Suite 200, California, MD 20619.

FOR FURTHER INFORMATION CONTACT: Ms. Christen Goulding at 703–805–5134.

SUPPLEMENTARY INFORMATION: The meeting is open to the public; however, because of space limitations, allocation of seating will be made on a first-come, first served basis. Persons desiring to attend the meeting should call Ms. Christen Goulding at 703–805–5134.

Dated: September 4, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–4407 Filed 9–07–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Meetings: Threat Reduction Advisory Committee

AGENCY: Defense Threat Reduction Agency, Office of the Under Secretary of Defense (Acquisition, Technology and Logistics); Department of Defense.

ACTION: Federal Advisory Committee meeting notice.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C., Appendix, as amended) and the Sunshine Act of 1976 (5 U.S.C. 552b, as amended) the Department of Defense announces the following Federal advisory committee meeting:

Name of Committee: Threat Reduction Advisory Committee (Hereafter referred to as the Committee).

Date of Meeting: Thursday, November 29, 2007, (8 a.m. to 4 p.m.) and Friday, November 30, 2007, (8 a.m. to 9:20 a.m.)

Location: Defense Threat Reduction Agency, Defense Threat Reduction Center Building, Conference Room G, Room 1252, 8725 John J. Kingman Road, Fort Belvoir, Virginia 22060–6201, and the USD (AT&L) conference Room (3E659), the Pentagon, Washington, DC.

Time: November 29, 2007, (8 a.m. to 4 p.m.) and November 30, 2007, (8 a.m. to 9:20 a.m.).

Purpose of Meeting: To obtain, review and evaluate information related to the Committee's mission to advise on technology security, combating weapons of mass destruction (WMD), chemical and biological defense, transformation of the nuclear weapons stockpile, and other matters related to the Defense Threat Reduction Agency's mission.

Meeting Agenda: The Committee will receive summaries of current activities related to combating WMD as well as nuclear deterrent transformation activities from the USD AT&L, ATSD (NCB) and Director of DTRA. Panel summaries from five ad-hoc working Panels (Chemical-Biological Warfare Defense, Systems and Technology, Combating weapons of Mass Destruction, Nuclear Deterrent Transformation, and intelligence) will be provided for committee discussion.

Meeting Accessibility: Pursuant to 5 U.S.C. 552b, as amended, and 41 CFR 102–3.155, the Department of Defense has determined that the meeting shall be closed to the public. The Undersecretary of Defense (Acquisition, Technology and Logistics), in consultation with the Office of the DoD General Counsel, has determined in writing that the public interest requires that all sessions of this meeting be closed to the public because they will be concerned with matters listed in section § 552b(c)(1) of title 5, United States Code.

Written Statements: Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to the membership of the Committee at any time or in response to the stated agenda of a planned meeting. Written statements should be submitted to the Committee's Designated Federal Officer; the Designated Federal Officer's contact information can be obtained from the GSA's FACA Database—*https://www.fido.gov/facadatabase/public.asp.* Written statements that do not pertain to a scheduled meeting of the Committee may be submitted at any time. However, if individual comments pertain to a specific topic being discussed at a planned meeting then these statements must be submitted no later than five business days prior to the meeting in question. The Designated Federal Officer will review all submitted written statements and provide copies to all committee members.

FOR FURTHER INFORMATION CONTACT: Mr. Eric Wright, Defense Threat Reduction Agency/AST, 8725 John J. Kingman Road, MS 6201, Fort Belvoir, VA 22060–6201.

E-mail: eric.wright@dtra.mil.
Phone: (703) 767–5717.
Fax: (703) 767–5701.

Dated: September 4, 2007.

C.R. Choate,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–4408 Filed 9–7–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Membership of the Performance Review Board

AGENCY: Department of Defense, Missile Defense Agency (MDA).

ACTION: Notice.

This notice announces the appointment of the members of the Performance Review Board (PRB) of the

Missile Defense Agency. The publication of PRB membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board (PRB) provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance scores to the Director, MDA.

EFFECTIVE DATE: September 1, 2007.

FOR FURTHER INFORMATION CONTACT: Gail Gallant, MDA SES Program Manager, Missile Defense Agency, Arlington, Virginia, (703) 693–1744.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following executives are appointed to the Missile Defense Agency PRB:

Brigadier General Patrick J. O'Reilly, USA.

Dr. Patricia Sanders.

Mr. Chester DeCesaris.

Mr. Richard Ritter.

RADM Alan Hicks, USN.

Executives listed will serve a one-year term, effective September 1, 2007.

Dated: September 4, 2007.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, DoD.

[FR Doc. 07–4409 Filed 9–7–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Department of the Navy

Meeting of the Board of Advisors (BOA) to the President, Naval Postgraduate School (NPS)

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of The Federal Advisory Committee Act (Pub. L. 92–463, as amended), notice is hereby given that the following meeting of the Board of Advisors to the President, Naval Postgraduate School will be held.

DATES: The meeting will be held on Tuesday, October 16, 2007, from 8 a.m. to 4 p.m. (open) and on Wednesday, October 17, 2007, from 8 a.m. to 12 p.m. (partially closed) Eastern Time Zone.

ADDRESSES: The meeting will be held at the Office of Naval Research, 875 N. Randolph Street, Suite 1435, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ms. Jaye Panza, Naval Postgraduate School, Monterey, CA, 93943–5001, telephone number: 831–656–2514.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to elicit the advice of the Board on the Naval Service's Postgraduate Education Program and the collaborative exchange and partnership between NPS and the Air Force Institute of Technology (AFIT). The board examines the effectiveness with which the NPS is accomplishing its mission. To this end, the board will inquire into the curricula; instruction; physical equipment; administration; state of morale of the student body, faculty, and staff; fiscal affairs; and any other matters relating to the operation of the NPS as the board considers pertinent.

This meeting will be open to the public on Tuesday, October 16, 2007, from 8 a.m.–4 p.m. and on Wednesday, October 17, 2007, from 8 a.m.–10 a.m. The Board will meet in closed executive session on Wednesday, October 17, 2007, from 10 a.m.–12 p.m. in accordance with the provision set forth in section 552b(c) of Title 5 U.S.C. in order to discuss nominations for Board vacancies and personnel issues. The closed session will disclose information of a personal nature where disclosure would constitute an unwarranted invasion of personal privacy. Individuals without a DoD government/CAC card require an escort at the meeting location. For access, information, or to send written comments regarding the NPS BOA contact Ms. Jaye Panza, Naval Postgraduate School, 1 University Circle, Monterey, CA 93943–5001 or by fax 831–656–3145 by October 5, 2007.

Dated: September 4, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate Generals Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–17765 Filed 9–7–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; NCP Coatings, Inc.

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to NCP Coatings, Inc., a revocable, nonassignable, exclusive license in the United States and certain foreign countries, the Government-owned invention described in U.S. Patent Application No. 11/828,399 entitled ''Polyurethane Coating'', Navy Case No. 98,771, and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than September 25, 2007.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Rita Manak, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue, SW., Washington, DC 20375–5320, telephone: 202–767–3083. Due to U.S. Postal delays, please fax: 202–404–7920, e-mail: *rita.manak@nrl.navy.mil* or use courier delivery to expedite response.

(Authority: 35 U.S.C. 207, 37 CFR Part 404.)

Dated: September 4, 2007.

T.M. Cruz,

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E7–17763 Filed 9–7–07; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 10, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

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.

Dated: September 4, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Communications and Outreach

Type of Review: Extension.

Title: Outreach Sign-on Form.

Frequency: One time.

Affected Public: Individuals or household; Businesses or other for-profit; Not-for-profit institutions; Federal Government; State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 720.

Burden Hours: 60.

Abstract: The database was started in 1994 to provide organizations and others with information about educational issues, programs, and products and is a convenient way to formalize a ''listserv'' by which to contact those who are interested. Information about the organizations and individuals is collected only through the sign-on form.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3403. 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., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. 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. E7–17761 Filed 9–7–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Reading First Advisory Committee; Notice of Meeting

AGENCY: Department of Education, Office of Elementary and Secondary Education.

ACTION: Notice of Open Teleconference Meeting.

SUMMARY: This notice announces an open meeting of the Reading First Advisory Committee. Notice of the 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.

DATE AND TIME: September 24, 2007, 11 a.m. until 1 p.m., Eastern Standard Time. This notice is appearing in the **Federal Register** less than 15 days prior to the open telephone meeting to help ensure that FY 2006 Reading First funds, which would be awarded to Puerto Rico if its application is approved, do not lapse. These funds are available for Federal obligation only through September 30, 2007.

ADDRESSES: The meeting will take place via telephone conference call. The public may access this meeting by dialing the telephone number that will be available on the Reading First Web site at *http://www.ed.gov/programs/readingfirst/advisory.html.*

FOR FURTHER INFORMATION CONTACT: Deborah Spitz, Designated Federal Officer, Reading First Advisory Committee; 400 Maryland Avenue, SW., Washington, DC 20202; telephone: (202) 260–3793; fax: (202) 260–8969; e-mail: *Deborah.Spitz@ed.gov.*

SUPPLEMENTARY INFORMATION: The Reading First Advisory Committee is authorized by Sections 1203(c)(2)(a) and 1202(e)(2) of the Elementary and Secondary Education Act (ESEA) of 1965, as amended. The Committee is established within the U.S. Department of Education (Department) to evaluate Reading First applications submitted by States, to review the progress reports that States submit after the third year of the grant period, to advise on the awarding of Targeted Assistance Grants, and to advise the Secretary on other issues that the Secretary deems appropriate.

At the meeting on August 22, 2007, the Committee discussed Puerto Rico's Reading First application and recommended that the Department disapprove Puerto Rico's application on the basis that Puerto Rico did not adequately address certain application requirements. The Committee made specific recommendations for improving the application, which the Department provided to Puerto Rico. Puerto Rico is revising its application to address the Committee's concerns.

At the September 24, 2007 meeting, the Committee will review and discuss the revisions that Puerto Rico has made to its application and recommend approval or disapproval of the revised application.

Individuals who will need accommodations for a disability in order to access the telephone conference call should notify Deborah Spitz at (202) 260–3793, no later than five (5) days before the scheduled date of the meeting. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability.

Request for Written Comments: Written comments should be submitted via e-mail at least five (5) days prior to the scheduled date of the meeting to Deborah Spitz at *Deborah.Spitz@ed.gov.* These comments will be shared with the members of the Committee.

Records are kept of all Committee proceedings and are available for public inspection at 400 Maryland Ave. SW., Washington, DC 20202, 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/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.

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Amanda Farris,

Deputy Assistant Secretary, Office of Elementary and Secondary Education.

[FR Doc. E7–17774 Filed 9–7–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 4, 2007.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER07–671–003.
Applicants: Trigen-St. Louis Energy Corporation.
Description: Trigen-St Louis Energy Corporation resubmits its compliance filing in paper format to the electronic format filing submitted on 8/27/07.
Filed Date: 08/28/2007.
Accession Number: 20070830–0006.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 18, 2007.

Docket Numbers: ER07–1248–001.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool Inc submits Exhibit I—a clean version of the corrected tariff sheets which was inadvertently omitted from its 8/3/07 original fling to its Open Access Transmission Tariff.
Filed Date: 08/24/2007.
Accession Number: 20070829–0041.
Comment Date: 5 p.m. Eastern Time on Friday, September 14, 2007.

Docket Numbers: ER07–1284–001.
Applicants: ISO New England Inc. & New England Power Pool.
Description: ISO New England Inc and New England Power Pool submit the replacement redlined and clean version of Sheet 7199 and 7201 due to an error found in its August 14 Filing under ER07–1284.
Filed Date: 08/24/2007.
Accession Number: 20070829–0043.
Comment Date: 5 p.m. Eastern Time on Friday, September 14, 2007.

Docket Numbers: ER07–1311–000.
Applicants: Southwest Power Pool, Inc.
Description: Southwest Power Pool, Inc submits a proposal to revise provisions related to the interconnection of large generators to SPP's transmission system, as well as its pro forma Large Generator Interconnection Agreement etc.
Filed Date: 08/30/2007.
Accession Number: 20070831–0032.
Comment Date: 5 p.m. Eastern Time on Thursday, September 20, 2007.

Docket Numbers: ER07–1313–000.
Applicants: Niagara Mohawk Power Corporation.
Description: Niagara Mohawk Power Corporation dba National Grid submits a Notice of Termination of the First Amended and Restated Transmission Service Agreement with the Power Authority of the State of New York.
Filed Date: 08/30/2007.
Accession Number: 20070831–0019.
Comment Date: 5 p.m. Eastern Time on Thursday, September 20, 2007.

Docket Numbers: ER07–1314–000.
Applicants: Duke Energy Carolinas, LLC.
Description: Duke Energy Carolinas, LLC submits an Amended & Restated Master Power Purchase and Sale Agreement Confirmation Letter with North Carolina Municipal Power Agency Number 1.
Filed Date: 08/30/2007.
Accession Number: 20070831–0017.
Comment Date: 5 p.m. Eastern Time on Thursday, September 20, 2007.

Docket Numbers: ER07–1315–000.
Applicants: Idaho Power Company.
Description: Idaho Power Co submits modifications to non-rate terms and conditions in its Order 890 pro forma Open Access Transmission Tariff filed on 7/13/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0018.
Comment Date: 5 p.m. Eastern Time on Thursday, September 20, 2007.

Take notice that the Commission received the following open access transmission tariff filings:

Docket Numbers: OA07–74–001.
Applicants: MATL LLP.
Description: MATL, LLP amends its 7/13/07 filing by submitting a revised Open Access Transmission Tariff in compliance with the Commission's Order 890.
Filed Date: 08/28/2007.
Accession Number: 20070830–0004.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 18, 2007.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH07–27–000.
Applicants: The Williams Companies, Inc.
Description: Northwest Pipeline Corporation submits an Exemption Notification concerning the applicability of Public Utility Holding Company Act of 2005.
Filed Date: 08/24/2007.
Accession Number: 20070828–0175.
Comment Date: 5 p.m. Eastern Time on Friday, September 14, 2007.

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.,

Acting Deputy Secretary.

[FR Doc. E7–17736 Filed 9–7–07; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

September 4, 2007.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP00–469–013.
Applicants: East Tennessee Natural Gas, LLC.
Description: East Tennessee Natural Gas, LLC submits Second Revised Sheet 103 to FERC Gas Tariff, Third Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0056.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP06–589–002.
Applicants: Texas Gas Transmission, LLC.
Description: Texas Gas Transmission, LLC submits First Revised Sheet 165 to FERC Gas Tariff, Second Revised Volume 1, to be effective 11/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070830–0146.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–99–002.
Applicants: ANR Pipeline Company.
Description: Motion of ANR Pipeline Company to place lower settlement rates into effect pending action of offer of settlement under RP07–99.
Filed Date: 08/30/2007.
Accession Number: 20070831–0057.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–634–000.
Applicants: Equitrans, LP.
Description: Equitrans, LP submits Eighteenth Revised Sheet 5, *et al.* to FERC Gas Tariff, Original Volume 1, to be effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070830–0144.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–635–000.
Applicants: Questar Southern Trails Pipeline Company.
Description: Questar Southern Trails Pipeline Company submits Sixth Revised Sheet 4 to FERC Gas Tariff, Original Volume 1, to be effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0001.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–636–000.
Applicants: Questar Pipeline Company.
Description: Questar Pipeline Company submits Forty-Second Revised Sheet 5 & Twenty-First Revised Sheet 6 to FERC Gas Tariff, First Revised Volume 1, to be effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0002.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–637–000.
Applicants: Dominion South Pipeline Company, LP.
Description: Dominion South Pipeline Company, LP submits Second Revised Sheet 50 & Second Revised Sheet 51 to FERC Gas Tariff, Original Volume 1, to be effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0003.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–638–000.
Applicants: Great Lakes Gas Transmission Limited Partnership.
Description: Great Lakes Gas Transmission Limited Partnership submits Twentieth Revised Sheet 7 to FERC Gas Tariff, Second Revised Volume 1 required under the Annual Charges Adjustment provision of Order 472, effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0004.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–639–000.
Applicants: Pine Needle LNG Company, LLC.
Description: Pine Needle LNG Co, LLC submits Fourteenth Revised Sheet 4 to FERC Gas Tariff, Original Volume 1, to become effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0055.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–640–000.
Applicants: Tennessee Gas Pipeline Company.
Description: Tennessee Gas Pipeline Co submits Thirty-Fifth Revised Sheet 20, *et al.* to FERC Gas Tariff, Fifth Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0054.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–641–000.
Applicants: Saltville Gas Storage Company, LLC.
Description: Saltville Gas Storage Co, LLC submits First Revised Sheet 111C, *et al.* to FERC Gas Tariff, Original Volume 1, to become effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0053.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–642–000.
Applicants: Transcontinental Gas Pipe Line Corp.
Description: Transcontinental Gas Pipe Line Corp submits Forty-Ninth Revised Sheet 27 to FERC Gas Tariff, Third Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/30/2007.
Accession Number: 20070831–0052.
Comment Date: 5 p.m. Eastern Time on Tuesday, September 11, 2007.

Docket Numbers: RP07–643–000.
Applicants: Guardian Pipeline, LLC.
Description: Guardian Pipeline, LLC submits Thirteenth Revised Sheet 5 to FERC Gas Tariff, Original Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0058.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–644–000.
Applicants: Viking Gas Transmission Company.
Description: Viking Gas Transmission Co submits Twentieth Revised Sheet 5B to FERC Gas Tariff, First Revise Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0059.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–645–000.
Applicants: Petal Gas Storage, LLC.
Description: Petal Gas Storage, LLC submits Fifth Revised Sheet 4A to FERC Gas Tariff, Original Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0060.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–646–000.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas submits 75 Revised Sheet 50, *et al.* to FERC Gas Tariff, Fifth Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0061.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–647–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: Florida Gas Transmission Co submits Seventh Revised Sheet 7, *et al.* to FERC Gas Tariff, Fourth Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0062.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–648–000.
Applicants: Northern Natural Gas Company.

Description: Northern Natural Gas Co. submits Ninth Revised Sheet 3, *et al.* to FERC Gas Tariff, Fifth Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0063.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–649–000.
Applicants: Texas Gas Transmission, LLC.
Description: Texas Gas Transmission, LLC submits Fifth Revised Sheet 2, *et al.* to FERC Gas Tariff, Second Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0066.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–650–000.
Applicants: Texas Eastern Transmission, LP.
Description: Texas Eastern Transmission, LP submits its report of recalculated Operational Segment Capacity Entitlements etc. to FERC Gas Tariff, Seventh Revised Volume 1.
Filed Date: 08/31/2007.
Accession Number: 20070831–0067.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–651–000.
Applicants: Paiute Pipeline Company.
Description: Paiute Pipeline Company submits its Seventeenth Revised Sheet 10 to its FERC Gas Tariff, Second Revised Volume 1–A.
Filed Date: 08/31/2007.
Accession Number: 20070831–0084.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–652–000.
Applicants: Florida Gas Transmission Company, LLC.
Description: Florida Gas Transmission Company LLC submits its Sixth Revised Sheet 7, *et al.* to its FERC Gas Tariff, Fourth Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0083.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–653–000.
Applicants: Midwestern Gas Transmission Company.
Description: Midwestern Gas Transmission Company submits its Ninth Revised Sheet 5 to its FERC Gas Tariff, Third Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0082.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–654–000.
Applicants: Southwest Gas Transmission Company.
Description: Southwest Gas Transmission Company submits Sixth Revised Sheet 4 as part of its FERC Gas Tariff, First Revised Volume 2.
Filed Date: 08/31/2007.
Accession Number: 20070831–0081.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–655–000.
Applicants: Columbia Gas Transmission Corporation.
Description: Columbia Gas Transmission Corporation submits Tenth Revised Sheet 280, *et al.* to its FERC Gas Tariff, Second Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0080.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–656–000.
Applicants: Destin Pipeline Company, LLC.
Description: Destin Pipeline Company, LLC submits its Tenth Revised Sheet 5. *et al.* to its FERC Gas Tariff, Original Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0079.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–657–000.
Applicants: Columbia Gulf Transmission Company.
Description: Columbia Gulf Transmission Company submits Eighth Revised Sheet 144, *et al.* to its FERC Gas Tariff, Second Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0078.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–658–000.
Applicants: Williston Basin Interstate Pipeline Co.
Description: Williston Basin Interstate Pipeline Company submits Sixty-Sixth Revised Sheet 15, *et al.* to its FERC Gas Tariff, Second Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0077.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–659–000.
Applicants: Williston Basin Interstate Pipeline Co.
Description: Williston Basin Interstate Pipeline Company submits its Sixty-Seventh Revised Sheet 15, *et al.* to its FERC Gas Tariff, Second Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0076.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–660–000.
Applicants: Columbia Gas Transmission Corporation.
Description: Columbia Gas Transmission Corporation submits its Eighty-fourth Revised Sheet 25, *et al.* to its FERC Gas Tariff, Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0074.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–661–000.
Applicants: Columbia Gulf Transmission Company.
Description: Columbia Gulf Transmission Co. submits its Forty-third Revised Sheet 18, *et al.* to its FERC Gas Tariff, Second Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0075.
Comment Date: 5 p.m .Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–662–000.
Applicants: Granite State Gas Transmission, Inc.
Description: Granite State Gas Transmission Inc submits its Thirty-second Revised Sheet 21 etal. to its FERC Gas Tariff, Third Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0073.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–663–000.
Applicants: Crossroads Pipeline Company.
Description: Crossroads Pipeline Company submits its Seventh Revised Sheet 6 to its FERC Gas Tariff, First Revised Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0072.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–664–000.
Applicants: Gulf South Pipeline Company, LP.
Description: Gulf South Pipeline LP submits its annual cash-in/cash-out report under RP07–664.
Filed Date: 08/31/2007.
Accession Number: 20070831–0070.
Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Docket Numbers: RP07–665–000.
Applicants: Central Kentucky Transmission Company.
Description: Central Kentucky Transmission Company submits its Fourth Revised Sheet 6 to its FERC Gas Tariff, Original Volume 1, to become effective 10/1/07.
Filed Date: 08/31/2007.
Accession Number: 20070831–0071.

Comment Date: 5 p.m. Eastern Time on Wednesday, September 12, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

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Nathaniel J. Davis, Sr.,

Acting Deputy Secretary.

[FR Doc. E7–17734 Filed 9–7–07; 8:45 am]

BILLING CODE 6717–01–P

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on September 13, 2007, from 9 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Roland E. Smith, Secretary to the Farm Credit Administration Board, (703) 883–4009, TTY (703) 883–4056.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

- August 9, 2007 (Open).

B. New Business

1. Regulations

- Priority of Claims; Joint and Several Liability—12 CFR Part 627—Final Rule.
- Priority of Claims; Subordinated Debt—12 CFR Part 627—Final Rule.

2. Reports

- FCSBA Quarterly Report.

Closed Session*

- OSMO Supervisory and Oversight Activities.

Dated: September 6, 2007.

Roland E. Smith,

Secretary, Farm Credit Administration Board.

[FR Doc. 07–4448 Filed 9–6–07; 3:42 pm]

BILLING CODE 6705–01–P

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting; FCC To Hold Open Commission Meeting; Tuesday, September 11, 2007

Date: September 4, 2007.

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Tuesday, September 11, 2007, which is scheduled to commence at 9:30 a.m. in Room TW–C305, at 445 12th Street, SW., Washington, DC. The Commission is waiving the sunshine period prohibition contained in section 1.1203 of the Commission's rules, 47 CFR 1.1203, until 5:30 p.m., Friday, September 7, 2007. Thus, presentations with respect to the items listed below will be permitted until that time.

Item No.	Bureau	Subject
1	Public Safety & Homeland Security	*Title:* Wireless E911 Location Accuracy Requirements (PS Docket No. 07–114); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems (CC Docket No. 94–102); Association of Public-Safety Communications Officials-International, Inc. Request for Declaratory Ruling; and 911 Requirements for IP-Enabled ServiceProviders (WC Docket No. 05–196). *Summary:* The Commission will consider a Report and Order concerning the geographic area over which wireless carriers must meet the Enhanced 911 (E911) location accuracy requirements.
2	Public Safety & Homeland Security	*Title:* Improving Public Safety Communications in the 800 MHz Band; Petitions for Waiver of Bethlehem, Pennsylvania and Reading, Pennsylvania; and Petitions for Waiver of Rockdale County, Newton County, City of Covington, Walton County, and Spalding County Georgia (WT Docket No. 02–55). *Summary:* The Commission will consider a Memorandum Opinion and Order concerning the obligations of licensees involved in 800 MHz band reconfiguration.

*Session Closed-Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Item No.	Bureau	Subject
3	Public Safety & Homeland Security	*Title:* FCC Announces Supplemental Procedures and Safety & Provides Guidance for Completion of 800 MHz Rebanding. *Summary:* The Commission will consider a Public Notice concerning implementation of 800 MHz band reconfiguration.
4	Media	*Title:* Implementation of section 621(a)(1) of the Cable Communications Policy Act of 1984 as amended by the Cable Television Consumer Protection and Competition Act of 1992 (MB Docket No. 05–311). *Summary:* The Commission will consider a Second Report and Order concerning section 621(a)(1)'s directive that local franchising authorities not unreasonably refuse to award competitive franchises and the application of the Commission's findings in the First Report and Order to incumbent providers.
5	Media	*Title:* Implementation of the Cable Television Consumer Protection and Competition Act of 1992; Development of Competition and Diversity in Video Programming Distribution, section 628(c)(5) of the Communications Act, Sunset of Exclusive Contract Prohibition (MB Docket No. 07–29); and Review of the Commission's Program Access Rules and Examination of Programming Tying Arrangements. *Summary:* The Commission will consider a Report and Order concerning the exclusive contract prohibition in section 628(c)(2)(D) and modification of the Commission's program access complaint procedures. The Commission will also consider a Notice of Proposed Rulemaking to review its program access rules and to examine programming tying arrangements.
6	Media	*Title:* Carriage of Digital Television Broadcast Signals,Amendment to Part 76 of the Commission's Rules (MB Docket No. 98–120). *Summary:* The Commission will consider a Third Report and Order and Third Further Notice of Proposed Rulemaking concerning issues related to mandatory cable carriage of digital broadcast television signals after the conclusion of the digital television (''DTV'') transition.
7	Wireline Competition	*Title:* Petition of AT&T Inc. for Forbearance Under Competition 47 U.S.C. 160(c) from Title II and *Computer Inquiry* Rules with Respect to Its Broadband Services; Petition of BellSouth Corporation for Forbearance Under section 47 U.S.C. 160(c) from Title II and*Computer Inquiry* Rules with Respect to Its Broadband Services (WC Docket No. 06–125); Qwest Petition for Forbearance Under 47 U.S.C. 160(c) from Title II and*Computer Inquiry* Rules with Respect to Broadband Services; Petition of the Embarq Local Operating Companies for Forbearance Under 47 U.S.C. 160(c) from Application of *Computer Inquiry* and Certain Title II Common-Carriage Requirements (WC Docket No. 06–147); and Petition of the Frontier and Citizens ILECs for Forbearance Under section 47 U.S.C. 160(c) from Title II and *Computer Inquiry* Rules with Respect to Their Broadband Services. *Summary:* The Commission will consider a Memorandum Opinion and Order concerning requests for forbearance from Title II and*Computer Inquiry* requirements with respect to certain broadband services.
8	Wireless Telecommunications	*Title:* Amendment of Part 101 of the Communications Commission's Rules to Modify Antenna Requirements for the 10.7–11.7 GHz Band (WT Docket No. 07–54, RM–11043); Nextlink Wireless, Inc.; First Avenue Networks, Inc.; Telecom Transport Management Inc.; Conterra Ultra Broadband, LLC; and Petitions for Waiver of sections 101.103 and 101.115 of the Commission's Rules for the Use of Smaller Antennas in the 10.7–11.7 GHz Band. *Summary:* The Commission will consider a Report and Order concerning rules governing the use of antennas by Fixed Service operators in the 10.7–11.7 GHz.

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need including as much detail as you can. In addition, include a way we can contact you if we need more information. Make your request as early as possible; please allow at least 5 days advance notice. Last minute requests will be accepted, but may be impossible to fill. Send an e-mail to: *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

For a fee this meeting can be viewed live over George Mason University's Capitol Connection. The Capitol Connection also will carry the meeting live via the Internet. To purchase these services call (703) 993–3100 or go to *http://www.capitolconnection.gmu.edu.*

Copies of materials adopted at this meeting can be purchased from the FCC's duplicating contractor, Best Copy and Printing, Inc. (202) 488–5300; Fax (202) 488–5563; TTY (202) 488–5562. These copies are available in paper format and alternative media, including large print/type; digital disk; and audio and video tape. Best Copy and Printing, Inc. may be reached by e-mail at *FCC@BCPIWEB.com.*

Additional information concerning this meeting may be obtained from Audrey Spivack or David Fiske, Office of Media Relations, (202) 418–0500; TTY 1–888–835–5322. Audio/Video coverage of the meeting will be broadcast live with open captioning over the Internet from the FCC's Audio/Video Events Web page at *http://www.fcc.gov/realaudio.*

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 07–4440 Filed 9–6–07; 12:38 pm]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than September 25, 2007.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. The Dummermuth Family, consisting of Kim K. Dummermuth, Elgin, Iowa; Chris C. Dummermuth, Quincy, Illinois; David D. Dummermuth, Crawford, Colorado; and Connie C. Dummermuth Steere, Kingsport, Tennessee; to retain voting shares of of FNB BanShares, Inc., West Union, Iowa, and thereby indirectly retain voting shares of First National Bank, West Union, Iowa.

Board of Governors of the Federal Reserve System, September 5, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–17728 Filed 9–7–07; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FMR 2007–B3]

Assessment of Fees and Recovery of Costs for Antennas of Federal Agencies and Public Service Organizations

AGENCY: General Services Administration.

ACTION: Notice of bulletin.

SUMMARY: The attached bulletin cancels and replaces GSA Bulletin FPMR D–246, Assessment of Fees and Recovery of Costs for Antennas of Federal Agencies and Public Service Organizations. This bulletin provides all Federal agencies with general guidelines for assessing antenna placement fees on other Federal agencies, State and local government agencies, and charitable, public service and public safety, and non-profit organizations. It contains much of the same guidance as GSA Bulletin FMR 2007–B2, and includes updated information concerning the assessment of fees and recovery of costs in connection with the placement of antennas on Federal property.

EFFECTIVE DATE: September 10, 2007.

FOR FURTHER INFORMATION CONTACT: Stanley C. Langfeld, Director, Regulations Management Division, Office of Governmentwide Policy, 202–501–1737, or *stanley.langfeld@gsa.gov*.

Dated: August 28, 2007

Kevin Messner

Acting Associate Administrator,Office of Governmentwide Policy

Real Property

TO: Heads of Federal agencies

SUBJECT: Assessment of fees and recovery of costs for antennas of Federal agencies and public service organizations

1. Purpose. This bulletin provides all Federal agencies with general guidelines for assessing antenna placement fees on other Federal agencies, State and local government agencies, and charitable, public service and public safety, and non-profit organizations. State and local government agencies, charitable, public service and public safety, and non-profit organizations are referred to as ''public service organizations'' throughout this bulletin. (The use of the phrase ''public service organization'' is not intended to include Federal organizations or agencies, even though such organizations may also provide public services.)

While there may be other agency-specific statutory provisions that authorize Federal agencies to perform certain tasks, studies, surveys, or analyses when making their property available to other Federal agencies and the general public, this bulletin is intended to identify several typical costs and common authorities.

This bulletin is not a grant of authority, but merely a source of informational guidance. It contains much of the same guidance as GSA Bulletin FMR 2007–B2, and includes updated information concerning the assessment of fees and recovery of costs in connection with the placement of antennas on Federal property. It is recommended that Federal agencies consult their legal counsel prior to instituting any action relating to this bulletin.

2. Expiration. This bulletin contains information of a continuing nature and will remain in effect until canceled.

3. Background.

a. The use of wireless telecommunications equipment has been increasing and is expected to continue to increase in the future. The Telecommunications Act of 1996 recognizes the increasing importance of wireless telecommunications services and provides guidance for the rapid deployment of new telecommunications technologies.

b. The General Services Administration (GSA), Office of Governmentwide Policy (OGP), has taken a leadership role concerning the Federal Government's policy on the placement of wireless telecommunications equipment on Federal real property.

c. On March 14, 2007, based on input from an evaluation panel representing several landholding Federal agencies, GSA published in the **Federal Register** GSA Bulletin FMR 2007–B2, ''Placement of Commercial Antennas on Federal Property'' (72 FR 11881). The bulletin provides updated guidance on evaluating requests for siting telecommunications service antennas on Federal property.

d. This bulletin is in furtherance of the efforts of the interagency evaluation panel to provide guidance to Executive agencies on the assessment of fees for antennas and other related equipment that are dependent in whole or in part on the Federal spectrum rights for their transmissions. This guidance is focused generally on the placement of antennas belonging to other Federal agencies and certain public service organizations. Much of this guidance also may be useful when considering locating antennas and assessing fees for antenna placements on Federal property for other types of wireless telecommunications transmissions.

e. The Federal Communications Commission regulates the conditions and procedures under which communications entities offer and operate domestic wireless communications. This bulletin is intended to serve only as guidance on the assessment of fees and recovery of costs for locating antennas of other Federal agencies and certain public service organizations on Federal property.

f. The Administrator of GSA is authorized and directed to charge for all space and services provided to Federal agencies in accordance with 40 U.S.C.

§ 586. Other Federal agencies, independent regulatory commissions and mixed-ownership Government corporations are subject to their own applicable statutory authorities when providing antenna space and services to other Federal agencies and public service organizations, and are encouraged to follow this guidance to the extent consistent with their missions and policies.

g. Since there are numerous authorities applicable to Federal agencies relating to the assessment of fees and recovery of costs when providing antenna space and services, each agency should consult its legal counsel prior to initiating any action relating to this bulletin.

4. Assessment of Fees and Recovery of Costs.

In addition to any other applicable authorities, Executive agencies may assess fees or recover costs when providing antenna space and services in accordance with the authorities described in Subsections 4.a and 4.b, below. GSA, and Executive agencies operating under a delegation of authority from GSA, must provide antenna sites and assess fees in accordance with the authorities described in Subsection 4.c, below.

a. When Providing Antenna Sites to Other Executive Agencies.

(1) *Authorities for assessing fees against other Executive agencies.* Unless prohibited by law, regulation or internal agency policy, Executive agencies should consider using one of the legal authorities described in this Subsection 4.a(1) when deciding whether to assess user fees for the placement and servicing of antennas belonging to other Federal agencies. Each authority has certain benefits or limitations, which are discussed in further detail below, depending on the assessing agency's own programmatic needs.

(A) Section 704(c) of the Telecommunications Act of 1996, Pub. L. 104–104 (Feb. 8, 1996), 47 U.S.C. § 332 note. This provision authorizes Federal agencies to charge ''reasonable fees'' to providers of telecommunications services, including other Federal agencies, whose antennas and equipment are for telecommunications services that are dependent, in whole or in part, upon the use of Federal spectrum rights for their transmission. The legislative history accompanying Section 704 offers little guidance on what might constitute a reasonable fee to assess another Federal agency that might qualify as such a provider of telecommunications services. For purposes of this provision, the phrase ''reasonable fees'' could be construed to allow agencies to charge ''market-based'' rents or user fees to public service antenna service providers (*i.e.*, rents or fees that are based on comparable private sector rates even when those fees exceed the ouleasing agency's actual costs). However, Federal interagency transactions typically are based on actual cost reimbursements, and to avoid possible questions about excessive charges, it is recommended that agencies assess fees that are based on its actual costs when charging other Federal agencies under this authority. Moreover, unless the assessing agency has independent statutory authority to retain such monetary proceeds, any fees collected pursuant to the Telecommunications Act must be deposited in the U.S. Treasury as miscellaneous receipts.

(B) 40 U.S.C. § 586(c). If an Executive agency, other than GSA, provides ''space and services'' (which GSA has concluded includes space for antenna sites) to another Federal agency, the agency providing the antenna space (and related services) is authorized to charge the antenna-siting agency at rates approved by the Administrator of General Services.

Typically, these rates should approximate commercial charges for comparable space and services (*i.e.*, the agency is authorized to assess market-based rental rates and fees for siting the antenna, even if these charges exceed the agency's actual costs). Any amounts received by the Executive agency are to be credited to the appropriation or fund initially charged for providing the space or service; provided, however, that any amounts collected in excess of the actual operating and maintenance costs of the space or service must be deposited in the U.S. Treasury as miscellaneous receipts.

In some instances, agencies occupying Federal property that is under the custody and control of GSA may, under a delegation of the Administrator's authority, charge for ''space and services'' (including providing space and related services for antennas) under 40 U.S.C. §§ 121(e)(1) and 586. Such fees or charges must approximate commercial charges for comparable space and services (*i.e.*, market rates) and the proceeds from such charges or fees must be deposited into GSA's Federal Buildings Fund (40 U.S.C. § 592).

(C) The Economy Act, 31 U.S.C. § 1535. Although the Economy Act does not authorize a Federal agency to charge another Federal agency a user fee for the use of an interest in real property, in most instances it can be used as authority by a Federal agency to be reimbursed by the antenna-siting agency for the agency's actual costs incident to locating and maintaining another agency's antenna. Federal agencies are cautioned that inter-agency transactions under the Economy Act are limited to ''goods and services'' and that the lease of sites for antennas (*e.g.*, building rooftop space or other real property locations that might be suitable for antenna placements) would not qualify as a good or service. Nevertheless, Federal agencies may consider this authority to recoup the costs of other goods and services that might be incidental to the siting and servicing of another agency's antenna. Such incidental services might include protecting, maintaining and actually locating the antenna and its related equipment on the site. Additional regulatory guidance on charging for Economy Act services can be found at 48 C.F.R. Subpart 17.5.

(2) *Types of antenna siting costs Executive agencies may recover from other agencies.*

(A) Executive agencies may charge fees to other Federal agencies that will recoup the agency's actual cost (if any) of providing the antenna space or service. In addition to recouping these costs, the agency also may recover the cost of all necessary and incidental expenses it incurred in the siting of antennas on its property. Typical costs that might be necessary and incidental to the placement of antennas and related telecommunications equipment on Federal property include:

- Preparation of an Environmental Impact Statement or Environmental Assessment under the National Environmental Policy Act of 1969, as amended, and, if required, development of a communications site plan;
- Engineering evaluation to avoid electromagnetic intermodulations and interference;
- Various other studies or analyses of the impact of antennas and equipment on the current and planned Federal use(s) of the property;
- Preparation or recording of leases, licenses, easements, releases, surveys, title searches, or other documents; and
- Utilities, protection and necessary access to the site.

(B) In some instances, particularly when the costs in (2)(A), above, are minimal, or when it is not practicable or possible to identify individual cost components, the agency may estimate its aggregate actual cost and incorporate that amount into a single lump sum charge or a nominal user fee. These types of charges, to the maximum extent

possible, should reflect the agency's actual costs for siting Federal agency antennas.

(C) Under Federal appropriations law, it is impermissible for one agency to use its financial resources to augment the operations of another agency, in the absence of express statutory authority to do so. For this reason, any time an Executive agency incurs costs for placing an antenna of another Federal agency on its property, unless the agency has independent authority to spend its appropriated funds to support another agency's antenna siting activities, the agency should charge the agency whose antenna is being located on its property for all costs associated with the siting and servicing of the antenna.

(D) If there is any question about what costs can be incurred as necessary and incidental expenses to the placement of an antenna or related equipment on agency property, agency legal counsel should be consulted prior to the agency's incurring those costs.

b. When Providing Antenna Sites to Certain Public Service Organizations.

(1) *Authorities for providing sites and charging fees to certain public service organizations.*

(A) Section 704(c) of the Telecommunications Act of 1996, Pub.L. 104–104 (Feb. 8, 1996), 47 U.S.C. § 332 note. This provision authorizes Federal agencies to make available on a fair, reasonable and nondiscriminatory basis, Federal property, rights-of-way and easements under their control for the placement of new telecommunications services that are dependent, in whole or in part, upon the utilization of Federal spectrum rights for the transmission or reception of such services. This provision can be used to make Federal sites available to certain public service organizations (*e.g.*, emergency broadcast systems and public service radio stations, and local fire, police and rescue organizations), if such organizations' telecommunications services are dependent, in whole or in part, upon the utilization of Federal spectrum rights. However, this authority has obvious limitations where a public service organization's services are not dependent on the Federal spectrum rights for their transmission or reception. For instance, the Telecommunications Act authority would not be applicable when the antenna is used for non-Federal spectrum broadcasts, or for broadband, microwave or data relay services. When a public service organization's telecommunication services are not dependent upon the Federal spectrum rights, Federal agencies likely will have to rely on their individual agency authorities to make antenna sites available and to assess fees. As noted in Section 4.a(1)(A), above, unless otherwise authorized by law to retain antenna siting proceeds, agencies collecting fees pursuant to the Telecommunications Act must deposit these fees in the U.S. Treasury as miscellaneous receipts.

(B) 40 U.S.C. § 581(h). This provision, formerly known as the Public Buildings Cooperative Use Act, authorizes GSA to lease space in or around ''public buildings'' (as defined in 40 U.S.C. § 3301(a)(5)) to persons, firms or organizations engaged in ''commercial, cultural, educational, or recreational activity'' (as defined in 40 U.S.C. § 3306(a)), at rental rates established by the Administrator of General Services that are equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the building.

When a Federal agency receives an antenna siting request from a public service organization, and that agency is occupying space in a public building that is under the jurisdiction, custody or control of GSA, the agency should refer the requesting public service organization to the appropriate GSA Public Buildings Service regional office. The referring agency should also advise the GSA regional office whether or not the referring agency recommends that GSA accommodate the antenna siting request. If GSA decides to make space available for an antenna, the lease, permit or other rental agreement will expressly provide that the antenna placement not be disruptive to other tenants in the building or the surrounding area.

This authority, while also available to other agencies through a delegation of authority from GSA, is limited to certain areas in and around public buildings (*e.g.*, major pedestrian access levels, rooftops or courtyards). Furthermore, any proceeds received under a lease or other agreement executed pursuant to 40 U.S.C. § 581(h) must be deposited into GSA's Federal Buildings Fund and credited to the appropriation from the Federal Buildings Fund applicable to the operation of the building. For these reasons, this authority will be of limited use to agencies other than GSA that are considering siting public service organization antennas in rural or remote locations or intending to retain the proceeds from these antenna leases or other agreements.

GSA, and Executive agencies operating under a delegation of authority from GSA, may, under certain circumstances, charge a rental rate less than the prevailing market rate, if the space is to be used for non-commercial purposes and the Administrator of General Services determines such other rate to be in the public interest (40 U.S.C. § 581(h)(2)). The decision to charge less than the prevailing commercial rate rests solely with the Administrator and will depend on the nature of the activity conducted on the property (*e.g.*, an antenna outlease of a very short duration or for broadcasts of an important public service and educational nature). The Administrator will charge market-based rental rates for all antenna leases, permits or other rental agreements with organizations engaged in commercial activities. Federal agencies should advise GSA officials about the nature and duration of the antenna site arrangement before requesting a delegation under this authority.

(C) 31 U.S.C. § 9701. This provision expresses the sense of Congress that each service or thing of value provided by an agency to a person is to be self-sustaining to the extent possible. It authorizes the head of each Federal agency to assess fees that are fair and based on the costs to the Federal Government, the value of the service or thing to the recipient, the public policy or interest served, and other relevant facts.

(D) 40 U.S.C. § 1314. Authorizes the Executive agency having control of real property of the Federal Government to grant easements in, over or on the real property to a State, a political subdivision or agency of a State, or a person, if the head of the agency decides the easement will not be adverse to the interests of the Federal Government, subject to reservations, exceptions, limitations, benefits, burdens, terms, or conditions that the head of the agency considers necessary to protect the interests of the Federal Government. The grant may be made without consideration, or with monetary or other consideration. This easement authority may be used to site antennas and related equipment on Federal property in support of constructing new and improving existing telecommunication infrastructure, provided that such installation does not impact adversely the interests of the Federal Government.

(E) Federal Management Regulation, 41 C.F.R. §§ 102–79.70 – 79.100. These sections provide regulatory guidance on siting antennas on Federal property for Federal agencies operating under, or subject to, the authorities of the Administrator of General Services.

(F) President Clinton's Memorandum of August 10, 1995, entitled

''Facilitating Access to Federal Property for the Siting of Mobile Services Antennas,'' 60 F.R. 42023, 40 U.S.C. § 581 note. This Presidential Memorandum, which is still in effect, does not grant independent statutory authority to Executive agencies to assess user fees; however, it does provide guidance to agencies on procedures to use to facilitate access to Federal property for the siting of telecommunications service provider equipment. The Memorandum provides that, with respect to the assessment of fees for the siting of such equipment, unless otherwise prohibited by or inconsistent with Federal law, Executive agencies shall charge fees based on market value for siting antennas on Federal property, and may use competitive procedures if not all applicants can be accommodated.

(G) Office of Management and Budget Circular A–25. This Office of Management and Budget (OMB) Circular, entitled ''User Charges,'' revised July 8, 1993, provides guidelines that Federal agencies should use to assess fees for Federal Government services and for the sale or use of Federal Government property or resources.

(H) Department of Commerce Report on ''Improving Rights-of-Way Management Across Federal Lands: A Roadmap for Greater Broadband Deployment'' (April 2004). For antenna sites on non-GSA property, Federal agencies are directed to the Department of Commerce Report for additional guidance.

(2) *Fees and costs Executive agencies may assess certain public service organizations.* Executive agencies should, whenever possible, assess market-based fees (*i.e.*, fees potentially in excess of actual costs), when public service organizations site antennas on Federal property. Federal agencies also should recover any additional costs they incur associated with use of the property, right-of-way or easement. An exception to this general rule, as discussed in greater detail in Section 4.b(1)(B), above, is when the public service organization is using the space for non-commercial purposes and the Administrator of General Services determines that a rate other than the prevailing commercial rate is in the public interest and should be charged. However, the account into which an antenna siting fee is to be deposited depends on the authority under which the antenna site is made available and the fee assessed.

c. GSA's Authorities to Provide Sites for Antennas and Related Equipment and to Assess Fees.

Enumerated below is a summary of the authorities that govern GSA's ability to provide sites and services for antennas and related equipment to Federal agencies and certain public service organizations on GSA-controlled real property and to assess fees for such antenna sites and services. As discussed in Sections 4.a and 4.b, above, some of these authorities are also applicable to Executive agencies acting under a delegation from GSA. Except for fees received pursuant to Section 704(c) of the Telecommunications Act of 1996, which must be deposited in the U.S. Treasury as miscellaneous receipts unless the assessing agency has independent statutory authority to retain such fees, the antenna siting proceeds generated by GSA pursuant to the authorities described below may be deposited in GSA's Federal Buildings Fund.

(1) 40 U.S.C. § 581(g). This provision authorizes the Administrator of General Services to obtain payments for services, space, quarters, maintenance, repair or other facilities furnished to a Federal agency.

(2) 40 U.S.C. § 586(b). This provision authorizes the Administrator of General Services to charge anyone furnished space and services at rates that approximate commercial charges for comparable space and services (including rooftop antenna space). This section further authorizes the Administrator to exempt anyone from these charges, if the Administrator determines that the charges would be infeasible or impractical.

(3) 40 U.S.C. § 581(h)(1). As discussed in greater detail in Section 4.b(1)(B), above, this provision authorizes the Administrator to lease space on major pedestrian access levels, courtyards or rooftops of any public building to persons, firms, or organizations engaged in commercial, cultural, educational, or recreational activities (as defined in 40 U.S.C. § 3306(a)), establish rental rates for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the building and negotiate terms and conditions that protect the public interest.

(4) 40 U.S.C. § 581(h)(2). As discussed in greater detail in Section 4.b(1)(B), above, this provision authorizes the Administrator to make available, on occasion, or lease at a rate and on terms and conditions that the Administrator considers to be in the public interest, rooftops, courtyards and certain other areas in public buildings to persons, firms or organizations engaged in cultural, educational or recreational activities (as defined in 40 U.S.C. § 3306(a)) that will not disrupt the operation of the building. This authority can only be used if the public service organization is engaged in a non-commercial activity.

(5) The Economy Act, 31 U.S.C. § 1535. As discussed in greater detail in Section 4.a(1)(C) , above, this provision authorizes GSA to provide, on a reimbursable basis, goods and services to other Federal agencies, including any goods or services that might be related to the placement of another agency's antenna on GSA-controlled property.

(6) 31 U.S.C. § 9701. As discussed in greater detail in Section 4.b(1)(C), above, this provision authorizes GSA to assess fees that are fair and based on the value of the service or thing provided by the agency. Since GSA typically assesses fees that are based on commercial charges for comparable space and services as required by its authorities set forth in Title 40 of the United States Code, GSA seldom relies on this authority.

(7) Section 704(c) of the Telecommunications Act of 1996, Pub. L. 104–104 (Feb. 8, 1996), 47 U.S.C. § 332 note. As discussed in greater detail in Sections 4.a(1)(A) and 4.b(1)(A), above, this provision authorizes GSA to charge reasonable fees for the use of GSA property by agencies or organizations whose antennas and related equipment are for telecommunications services that are dependent, in whole or in part, upon the use of Federal spectrum rights for their transmission. Insofar as GSA has several other authorities from which to choose from when negotiating antenna siting agreements with telecommunications service providers, GSA will seldom rely upon this authority.

(8) President Clinton's Memorandum of August 10, 1995, entitled ''Facilitating Access to Federal Property for the Siting of Mobile Services Antennas,'' 60 F.R. 42023, 40 U.S.C. § 581 note. As discussed in greater detail in Section 4.b(1)(F), above, this Presidential Memorandum, although not an independent grant of authority to assess user fees, does provide guidance to agencies on procedures to use to facilitate access to Federal property for the siting of telecommunications service provider equipment. Consistent with this Presidential Memorandum and GSA's statutory authority to charge commercial equivalent rates when providing space and services to accommodate antennas, GSA will

continue to assess market-based fees, whenever practical and feasible.

(9) 40 U.S.C. § 1314. As discussed in greater detail in Section 4.b(1)(D), above, this easement authority may be used to site antennas and related equipment on Federal property under GSA's jurisdiction, custody or control. The grant may be made without consideration, or with monetary or other consideration, at the discretion of the head of the agency.

(10) Section 412 of the GSA General Provisions, Consolidated Appropriations Act, 2005, Pub. L. 108–447 (Dec. 8, 2004). This provision granted GSA new and additional real property disposition authority and the authority to retain proceeds from the disposal of its real property. In addition to giving GSA authority to retain the net proceeds from its real property disposals, Section 412 granted GSA additional new authority to dispose of its real and related personal property by various means, including by sale, lease, exchange, or otherwise. This authority is in addition to GSA's numerous other existing statutory authorities applicable to the use and disposal of real property under its jurisdiction, custody or control. For GSA-controlled property leased under Section 412 to accommodate antennas and related equipment, the proceeds of any such lease would be deposited into GSA's Federal Buildings Fund.

(11) Subchapters III and IV of Chapter 5 of Subtitle I of Title 40 of the United States Code. These are GSA's traditional authorities for the disposal of surplus property. Surplus real property may be leased under these authorities to site antennas and related equipment on property under the jurisdiction, custody or control of GSA. In light of the Section 412 authority discussed in the immediately preceding paragraph, GSA may now retain the proceeds from such disposals and deposit them into the Federal Buildings Fund.

(12) Federal Management Regulation, 41 C.F.R. §§ 102–79.70 – 79.100. As discussed in Section 4.b(1)(E), above, these sections provide regulatory guidance on siting antennas on Federal property under the jurisdiction, custody or control of GSA.

(13) Office of Management and Budget Circular A–25. As discussed in Section 4.b(1)(G), above, this OMB Circular provides guidelines that GSA should use to assess fees for services it offers and for the sale or use of property or resources under its jurisdiction, custody or control.

5. Additional Information

Further information regarding this bulletin may be obtained by contacting Mr. Stanley C. Langfeld, Director, Regulations Management Division, Office of Governmentwide Policy, General Services Administration, at (202) 501–1737, or *stanley.langfeld@gsa.gov*.

[FR Doc. E7–17755 Filed 9–7–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Rulemaking Making Notice of Approval

On September 5, 2007, the Department of Health and Human Services published a final rule governing error rate reporting under the Child Care and Development Fund (CCDF). In accordance with the Paperwork Reduction Act (PRA), the Office of Management and Budget (OMB) has approved the forms and instructions that will be used to implement the final rule on CCDF error rate reporting. This notice is published under authority of Reporting and Recordkeeping Requirements: Final Rule (1320.11(k)) published August 29, 1995.

Dated: September 4, 2007.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 07–4410 Filed 9–7–07; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel, NCI Community Networks Program.

Date: October 4–5, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Gaithersburg Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Bratin K. Saha, PhD, Scientific Review Administrator, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8041, Bethesda, MD 20892, (301) 402–0371, *sahab@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, CA 077–033, 034, 039, 040, ''Innovative Technologies for Milecular Analysis of Cancer.''

Date: October 16, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Jeffrey E. DeClue, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8059, Bethesda, MD 20892–8329, 301–496–7904, *decluej@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee H—Clinical Groups, Subcommittee H—Childrens Oncology Group.

Date: October 22–23, 2007.

Time: 7 p.m. to 9 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2100 Wisconsin Ave, Washington DC.

Contact Person: Timothy C. Meeker, MD, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 8103, Bethesda, MD 20892, (301) 594–1279, *meekert@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee F—Manpower & Training.

Date: October 25, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza—Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Lynn M. Amende, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8105, Bethesda, MD 20892, 301–451–4759, *amendel@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Application of Emerging Technologies for Cancer Research.

Date: October 31–November 1, 2007.

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: Marvin L. Salin, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–496–0694, *msalin@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, NCI Small Grant Program.

Date: November 6–7, 2007.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: Renaissance M Street Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Irina V. Gordienko, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Room 7073, Bethesda, MD 20892–8329, 301–594–1566, *gordienkoiv@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Small Grants Program for Cancer Epidemiology.

Date: November 29–30, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Bethesda North Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: Joyce C. Pegues, PhD, Scientific Review Administrator, Special Review and Logistics Branch, Division of Extramural Activities, NIH National Cancer Institute, 6116 Executive Boulevard, Room 7149, Bethesda, MD 20892–8329, 301–594–1286, *peguesj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4381 Filed 9–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 purpose of this meeting is to evaluate proposals for support through the RAID program by making available to the research community, on a competitive basis, NCI new agent development contract resources for the preclinical development of drugs and biologics. The outcome of the evaluation will be a decision whether NCI should support the request and make available contract resources for support through the RAID program to the research community and NCI new agent development for the preclinical development of drugs and biologics. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Rapid Access to Intervention Development.

Date: October 9–10, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To evaluate the Rapid Access to Intervention Development Portfolio.

Place: Bethesda Marriott, Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Phyllis G. Bryant, Executive Secretary, Program Analyst, Developmental Therapeutics Program, National Cancer Institute, NIH, 6130 Executive Boulevard, Rm. 8022, Bethesda, MD 20892, (301) 496–8720.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394 Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4382 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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 Cancer Institute Special Emphasis Panel, CA 07–506: ''A Data Resource for Analyzing Blood & Marrow Transplants (U24)''.

Date: October 1, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6116 Executive Boulevard, Room 8109, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Sonya Roberson, PhD, Scientific Review Administrator, Resources and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8109, Bethesda, MD 20892, 301–594–1182, *robersos@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Cellular Oncology (SEP).

Date: October 2–3, 2007.

Time: 9 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, Pooks Hill, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Shakeel Ahmad, PhD, Scientific Review Administrator, Research Programs Review Branch, National Cancer Institute, Division of Extramural Activities, 6116 Executive Boulevard, Room 8137, Bethesda, MD 20892–8328, (301) 594–0114, *ahmads@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group, Subcommittee I—Career Development.

Date: October 25, 2007.

Time: 9 a.m. to 8 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Washington Silver Spring, 8777 Georgia Avenue, Silver Spring, MD 20910.

Contact Person: Robert Bird, PhD, Scientific Review Administrator, Resources and Training Review Branch, National

Cancer Institute, National Institutes of Health, 6116 Executive Blvd., Room 8113, MSC 8328, Bethesda, MD 20892–8328, 301–496–7978, *birdr@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, In Vivo Cellular and Molecular Imaging Centers (ICMICs).

Date: November 15–16, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC North Gaithersburg, 620 Perry Parkway, Gaithersburg, MD 20877.

Contact Person: Kenneth L. Bielat, PhD, Scientific Review Administrator, Special Review Logistics Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Boulevard, Suite 703, Room 7147, Bethesda, MD 20892–8329, 301–496–7576, *bielatk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4383 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 Center for Research Resources Special Emphasis Panel.

Date: October 10, 2007.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health/NCRR/OR, 1 Democracy Plaza, 6701 Democracy Blvd., 1078, Bethesda, MD 20892–4874. (Telephone Conference Call).

Contact Person: Steven Birken, PhD, Scientific Review Administrator, National Institutes of Health, National Center for Research Resources, Office of Review, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1078, Bethesda, MD 20892, 301–435–0815, *birkens@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: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4393 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Scientific and Technical Review Board on Biomedical and Behavioral Research Facilities, STRB 2007.

Date: September 25–27, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hilton Washington/Rockville, Double Tree Name Changed, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Barbara J. Nelson, PhD, Scientific Review Administrator, Office of Review, National Center for Research Resources, NIH, 6701 Democracy Blvd., Room 1080, 1 Democracy Plaza, Bethesda, MD 20892, (301) 435–0806.

(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: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4395 Filed 9–7–07; 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, MBRS Support of Competitive Research.

Date: September 26, 2007.

Time: 8:30 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Double Tree Hotel Bethesda, 8120 Wisconsin Avenue, Bethesda, Md 20814.

Contact Person: Margaret J. Weidman, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN18B, Bethesda, MD 20892, 301–594–3663, *weidmanma@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, MBRS Support of Competitive Research.

Date: September 27, 2007.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Rebecca H. Johnson, PhD, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN18C, Bethesda, MD 20892, 301–594–2771, *johnsonrh@nigms.nih.gov.*

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel, MBRS Support of Competitive Research.

Date: October 1–2, 2007.
Time: 8:30 a.m. to 12 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Lisa Dunbar, PhD, Office of Scientific review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12, Bethesda, MD 20892, 301–594–2849, *dunbarl@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, Physiology, 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: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4384 Filed 9–07–07; 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 Initial Review Group, Clinical and Treatment Subcommittee. AA3 Clinical and Treatment Subcommittee Meeting.
Date: October 11–12, 2007.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Crowne Plaza Washington Silver Spring, Silver Spring, MD 20910.
Contact Person: Katrina L. Foster, PhD, Scientific Review Administrator, National Inst On Alcohol Abuse & Alcoholism, National Institutes Of Health, 5635 Fishers Lane, Rm. 3042, Rockville, MD 20852, 301–443–4032, *katrina@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: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4385 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; 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 Biomedical Imaging and Bioengineering Special Emphasis Panel, Training and Career Award Review.
Date: November 14, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Gaithersburg Marriott Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.
Contact Person: Ruixia Zhou, PhD, Scientific Review Administrator, 6707 Democracy Boulevard, Democracy Two Building, Suite 957, Bethesda, MD 20892, (301) 496–4773, *zhour@mail.nih.gov.*

Name of Committee: National Institute of Biomedical Imaging and Bioengineering Special Emphasis Panel ZEB1 OSR–D (J1) S Enabling Technologies for Tissue Engineering and Regenerative Medicine.
Date: November 16, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Courtyard Gaithersburg Center, 204 Boardwalk Place, Gaithersburg, MD 20878.
Contact Person: John K. Hayes, PhD, Scientific Review Administrator, 6707 Democracy Boulevard, Suite 959, Democracy Two, Bethesda, MD 20892, (301) 451–3398, *hayes@mail.nih.gov.*

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4386 Filed 9–7–07; 8:45am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Dental and Craniofacial Research Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Dental and Craniofacial Research Council.
Date: September 24, 2007.
Open: 8:30 a.m. to 12 p.m.
Agenda: Report from the Institute Director and an update on the NIH peer review assessment.
Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C10, Bethesda, MD 20892.
Closed: 1 p.m. to adjournment.
Agenda: To review and evaluate grant applications and/or proposals.
Place: National Institutes of Health, Building 31, 31 Center Drive, Conference Room 6C10, Bethesda, MD 20892.
Contact Person: Norman S. Braveman, PhD, Assistant to the Director, NIH–NIDCR, Building 31, Rm. 5B55, Bethesda, MD 20892,

301 594–2089, *NORMAN.BRAVEMAN@NIH.GOV.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4387 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Dental and Craniofacial Research.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Dental & Craniofacial Research, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Dental and Craniofacial Research.

Date: September 26–28, 2007.

Time: September 26, 2007, 7 p.m. to 9 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Doubletree Hotel, 8120 Wisconsin Ave, Bethesda, MD 20814.

Time: September 27, 2007, 8 a.m. to 6 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 30, 9000 Rockville Pike, Bethesda, MD 20892.

Time: September 27, 2007, 7 p.m. to 9 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Doubletree Hotel, 8120 Wisconsin Ave, Bethesda, MD 20814.

Time: September 28, 2007, 8:30 a.m. to adjournment.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 30, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Norman S. Braveman, Assistant to the Director, NIH–NIDCR, 31 Center Drive, Bldg. 31, Room 5B55, Bethesda, MD 20892, 301 594–2089, *NORMAN.BRAVEMAN@NIH.GOV*.

Information is also available on the Institute's/Center's home page: *http://www.nidcr.nih.gov/about/CouncilCommittees.asp*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4388 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy And Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel Unsolicited K24 Application.

Date: October 3, 2007.

Time: 4 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, Bethesda, MD 20817. (Telephone Conference Call).

Contact Person: Quirijn Vos, PhD, Scientific Review Administrator, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, (301) 451–2666, *qvos@niaid.nih.gov.* (Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 29, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4389 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental & Craniofacial Research; Notice of Closed 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 Dental and Craniofacial Research Special Emphasis Panel, Review R25s.

Date: October 4, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sooyoun (Sonia) Kim, MS, 45 Center Dr., 4An 32B, Division of Extramural Research, National Inst. of Dental & Craniofacial Research, National Institute of Health, Bethesda, MD 20892, (301) 594–4827, *kims@mail.nidr.nih.gov.*

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review R21.

Date: October 31, 2007.

Time: 2 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Natcher Building, 45 Center Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Sooyoun (Sonia) Kim, MS, 45 Center Dr., 4An 32B, Division of Extramural Research, National Inst. of Dental & Craniofacial Research, National Institute of Health, Bethesda, MD 20892, (301) 594–4827, *kims@mail.nidr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: August 29, 2007.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4390 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Prion Transmission and Detection.

Date: October 3, 2007.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Rockledge 6700, 6700B Rockledge Drive, 3253, Bethesda, MD 20817. (Telephone Conference Call).

Contact Person: Darren D. Sledjeski, PhD, Scientific Review Administrator, NIH/NIAID/DHHS, Scientific Review Program, 6700B Rockledge Drive, MSC–7616, Room 3131, Bethesda, MD 20892–7616, 301–451–2638, *sledjeskid@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4391 Filed 9–7–07; 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 meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Translational Research.

Date: October 25, 2007.

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: Michele L. Barnard, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB–N J2.

Date: November 16, 2007.

Time: 3 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: D. G. Patel, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 914, 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 Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Advisory Committee Policy.

[FR Doc. 07–4392 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Division of Intramural Research Board of Scientific Counselors, NIAID.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Allergy and Infectious Diseases, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Division of Intramural Research Board of Scientific Counselors, NIAID.

Date: December 3–5, 2007.

Time: December 3, 2007, 8 a.m. to 6:50 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, 50 Center Drive, Conference Rooms 1227/1233, Bethesda, MD 20892.

Time: December 4, 2007, 8 a.m. to 5:50 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, 50 Center Drive, Conference Rooms 1227/1233, Bethesda, MD 20892.

Time: December 5, 2007, 8 a.m. to 12 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 50, 50 Center Drive, Conference Rooms 1227/1233, Bethesda, MD 20892.

Contact Person: Kathryn C. Zoon, PhD, Director, Division of Intramural Research, National Institute of Allergy and Infectious Diseases, NIH, Building 31, Room 4A30, Bethesda, MD 20892, 301–496–3006, *kzoon@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4394 Filed 9–07–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Arthritis and Musculoskeletal and Skin Diseases Special Grants Review Committee.

Date: October 25–26, 2007.

Time: 8 a.m. to 2:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Courtyard, Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Helen Lin, PhD, Scientific Review Administrator, NIH/NIAMS/RB, 6701 Democracy Blvd., Suite 800, Plaza One, Bethesda, MD 20817, 301–594–4952, *linh1@mail.nih.gov.*

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4399 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the National Advisory Neurological Disorders and Stroke Council.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plans to attend and need special assistance, such as sign language interpretation or other reasonable accommodation, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Neurological Disorders and Stroke Council, Training, Career Development, and Special Programs Subcommittee.

Date: September 19, 2007.

Open: 8 p.m. to 9:45 p.m.

Agenda: To discuss the training programs of the Institute.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Closed: 9:45 p.m. to 10 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Stephen J. Korn, PhD., Training and Special Programs Officer, National Institute of Neurological Disorders and Stroke, National Institutes of Health, 6001 Executive Blvd., Suite 2154, MSC 9527, Bethesda, MD 20892–9527, (301) 496–4188.

Name of Committee: National Advisory Neurological Disorders and Stroke Council, Basic and Preclinical Programs Subcommittee.

Date: September 20, 2007.

Closed: 8 a.m. to 8:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, A Wing, 31 Center Drive, Conference Room 8A–28, Bethesda, MD 20892

Open: 8:30 a.m. to 10 a.m.

Agenda: To discuss basic and preclinical programs policy.

Place: National Institutes of Health, Building 31, A Wing, 31 Center Drive, Conference Room 8A–28, Bethesda, MD 20892.

Contact Person: Robert Baughman, MD, Associate Director for Technology Development, National Institute of Neurological Disorders and Stroke, National Institutes of Health, 6001 Executive Blvd., Suite 2137, MSC 9527, Bethesda, MD 20892–9527, (301) 496–1779.

Name of Committee: National Advisory Neurological Disorders and Stroke Council, Clinical Trials Subcommittee.

Date: September 20, 2007.

Closed: 8 a.m. to 9 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, C Wing, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Open: 9 a.m. to 10 a.m.

Agenda: To discuss clinical trials policy.

Place: National Institutes of Health, Building 31, C Wing, 31 Center Drive, Conference Room 10, Bethesda, MD 20892.

Contact Person: John Marler, MD, Associate Director for Clinical Trials, National Institute of Neurological, Disorders and Stroke, National Institutes of Health, 6001 Executive Blvd., Suite 2216, Bethesda, MD 20892, (301) 496–9135, *jm137f@nih.gov.*

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page *http://www.ninds.nih.gov*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4400 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; 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 Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders C.

Date: October 18–19, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Washington, DC-Convention Center, 900 10th Street, NW., Washington, DC 20001.

Contact Person: William C. Benzing, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS/Neuroscience Center, 6001 Executive Boulevard, Suite 3208, MSC 9529, Bethesda, MD 20892, (301) 496–0660, *benzingw@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders B.

Date: October 18–19, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: W. Ernest Lyons, PhD, Scientific Review Administrator, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–4056.

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders K.

Date: October 18–19, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202.

Contact Person: Shanta Rajaram, PhD, Scientific Review Administrator, Division of Extramural Research, NIH/NINDS/SRB, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20852, (301) 435–6033, *rajarams@mail.nih.gov.*

Name of Committee: National Institute of Neurological Disorders and Stroke Initial Review Group, Neurological Sciences and Disorders A.

Date: October 25–26, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: George Washington University Inn, 824 New Hampshire Avenue, NW., Washington, DC 20037.

Contact Person: Richard D. Crosland, PhD, Scientific Review Administrator, Scientific Review Branch, Division of Extramural Research, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3208, MSC 9529, Bethesda, MD 20892–9529, 301–496–9223.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4401 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Behavior and Social Science of Aging Review Committee, October 11, 2007, 4 p.m. to October 12, 2007, 5 p.m., Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD, 20814 which was published in the **Federal Register** on August 28, 2007, 72 FR 49287.

The meeting will be held at the Embassy Suites Hotel at the Chevy Chase Pavilion, 4300 Military Road, NW., Washington, DC 20015. The meeting is closed to the public.

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4402 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The portions of the meeting devoted to the review and evaluation of journals of potential indexing by the National Library of Medicine will be closed to the public in accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 U.S.C., as amended. Premature disclosure of the titles of the journals as potential titles to be indexed by the National Library of Medicine, the discussions, and the presence of individuals associated with these publications could significantly frustrate the review and evaluation of individual journals.

Name of Committee: Literature Selection Technical Review Committee.

Date: October 11–12, 2007.

Open: October 11, 2007, 9 a.m. to 11 a.m.

Agenda: Administrative reports and program discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 11, 2007, 11 a.m. to 5 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Closed: October 12, 2007, 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate journals as potential titles to be indexed by the National Library of Medicine.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20894.

Contact Person: Sheldon Kotzin, MLS, Associate Director, Division of Library Operations, National Library of Medicine, 8600 Rockville Pike, Bldg 38/Room 2W06, Bethesda, MD 20894, 301–496–6921, *Sheldon_Kotzin@nlm.nih.gov.*

Any interested person may file written comments with the Committee by forwarding the statement to the Contact Person listed on this Notice. The statement should include the name, address, telephone number and, when

applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance into the building by non-governmental employees. Persons without a government I.D. will need to show a photo I.D. and sign in at the security desk upon entering the building.

(Catalogue of Federal Domestic Assistance Program No.93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 07–4398 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, PAR301–368:MLPCN X02 Review Meeting.

Date: September 24–25, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Joseph G. Rudolph, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7844, Bethesda, MD 20892, 301–435–2212, *josephru@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Retinopathy Studies.

Date: September 25, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

Contact Person: Raya Mandler, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217, MSC 7840, Bethesda, MD 20892, 301–402–8228, *rayam@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group, Biodata Management and Analysis Study Section.

Date: September 30–October 1, 2007.

Time: 6 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Dulles Marriott Suites Hotel, 13101 Worldgate Drive, Herndon, VA 20170.

Contact Person: Marc Rigas, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7849, Bethesda, MD 20892, 301–402–1074, *rigasm@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Clinical Neuroscience and Disease Study Section.

Date: October 1–2, 2007.

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: Seetha Bhagavan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5194, MSC 7846, Bethesda, MD 20892, (301) 435–1121, *bhagavas@csr.nih.gov.*

Name of Committee: Respiratory Sciences Integrated Review Group, Lung Cellular, Molecular, and Immunobiology Study Section.

Date: October 1–2, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Wyndham Washington, DC., 1400 M Street, NW, Washington, DC 20005.

Contact Person: George M. Barnas, PhD, Scientific Review Administrator, Center for Scientific Review National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–435–0696, *barnasg@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Drug Discovery and Molecular Pharmacology Study Section.

Date: October 1–2, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria at Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Denise Shaw, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawkath@mail.nih.gov.*

Name of Committee: Respiratory Sciences Integrated Review Group, Lung Injury, Repair, and Remodeling Study Section.

Date: October 1–2, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ghenima Dirami, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2180, MSC 7818, Bethesda, MD 20892, 301–594–1321, *diramig@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Cellular Aspects of Diabetes and Obesity Study Section.

Date: October 1–2, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel and Executive Meeting Center, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Ann A. Jerkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6154, MSC 7892, Bethesda, MD 20892, 301–435–4514, *jerkinsa@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Macromolecular Structure and Function A Study Section.

Date: October 1, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.

Contact Person: David R. Jollie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4150, MSC 7806, Bethesda, MD 20892, (301) 435–1722, *jollieda@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Cancer Etiology Study Section.

Date: October 1–2, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, 1515 Rhode Island Ave., NW, Washington, DC 20005.

Contact Person: Victor A. Fung, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6178, MSC 7804, Bethesda, MD 20892, 301–435–3504, *fungv@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Social Psychology, Personality and Interpersonal Processes Study Section.

Date: October 1, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street, NW, Washington, DC 20037.

Contact Person: Anna L. Riley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of

Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, 301–435–2889, *rileyann@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Clinical Neuroscience and Disease.
Date: October 1–2, 2007.
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: Seetha Bhagavan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3022D, MSC 7846, Bethesda, MD 20892, (301) 435–1121, *bhagavas@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neural Oxidative Metabolism and Death Study Section.
Date: October 1–2, 2007.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Wyndham Washington, DC, 1400 M Street, NW, Washington, DC 20005.
Contact Person: Carol Hamelink, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5040H, MSC 7850, Bethesda, MD 20892, (301) 451–1328, *hamelinc@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Cellular and Molecular Biology of Neurodegeneration Study Section.
Date: October 1–2, 2007.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Palomar, 2121 P Street, NW., Washington, DC 20037.
Contact Person: Carole L. Jelsema, PhD, Chief and Scientific Review Administrator, MDCN IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4176, MSC 7850, Bethesda, MD 20892, (301) 435–1248, *jelsemac@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Cancer Genetics Study Section.
Date: October 1–2, 2007.
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: Zhiqiang Zou, PhD, MD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6190, MSC 7804, Bethesda, MD 20892, 301–451–0132, *zouzhiq@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group, Child Psychopathology and Developmental Disabilities Study Section.
Date: October 1–2, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle, Washington, DC 20005.
Contact Person: Jane A. Doussard-Roosevelt, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, MSC 7848, Bethesda, MD 20892, (301) 435–4445, *doussarj@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Bioengineering, Technology and Surgical Sciences Study Section.
Date: October 1–2, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Holiday Inn Fisherman's Wharf, 1300 Columbus Avenue, San Francisco, CA 94133.
Contact Person: Dharam S. Dhindsa, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5110, MSC 7854, Bethesda, MD 20892, (301) 435–1174, *dhindsad@csr.nih.gov.*

Name of Committee: Brain Disorders and Clinical Neuroscience Integrated Review Group, Brain Injury and Neurovascular Pathologies Study Section.
Date: October 1–2, 2007.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Latham Hotel Georgetown, 3000 M Street, NW., Washington, DC 20007.
Contact Person: Alexander Yakovlev, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5206, MSC 7846, Bethesda, MD 20892, 301–435–1254, *yakovleva@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group, Microscopic Imaging Study Section.
Date: October 2, 2007.
Time: 8 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Radisson Hotel and Suites Chicago, 160 East Huron Street, Chicago, IL 60611.
Contact Person: Ross D. Shonat, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1115, MSC 7849, Bethesda, MD 20892, 301–435–2786, *shonatr@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Host Interactions with Bacterial Pathogens Study Section.
Date: October 2–3, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Crowne Plaza Union Square, 480 Sutter Street, San Francisco, CA 94108.
Contact Person: Marian Wachtel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3208, MSC 7858, Bethesda, MD 20892, 301–435–1148, *wachtelm@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Drug Discovery and Mechanisms of Antimicrobial Resistance Study Section.
Date: October 2–3, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Sheraton Suites San Diego at Symphony Hall, 701 A Street, San Diego, CA 92101.
Contact Person: Tera Bounds, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–2306, *boundst@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Biophysics of Neural Systems Study Section.
Date: October 2–3, 2007.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1111 30th Street, NW., Washington, DC 20007.
Contact Person: Geoffrey G. Schofield, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Alcohol-Toxicology.
Date: October 2–3, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).
Contact Person: Christine L. Melchior, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5176, MSC 7844, Bethesda, MD 20892, 301–435–1713, *melchioc@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Macromolecular Structure and Function E Study Section.
Date: October 2–3, 2007.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Greenbelt Marriott, 6400 Ivy Lane, Greenbelt, MD 20770.
Contact Person: Nitsa Rosenzweig, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7760, Bethesda, MD 20892, (301) 435–1747, *rosenzweign@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Auditory Neuroscience.
Date: October 2, 2007.
Time: 1 p.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).
Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250, *bishopj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Surgery, Anesthesia, and Trauma Member Conflict.

Date: October 2, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Khalid Masood, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5120, MSC 7854, Bethesda, MD 20892, 301–435–2392, *masoodk@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4396 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Epidemiology of Breast Cancer.

Date: September 18, 2007.

Time: 10 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Denise Wiesch, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3150, MSC 7770, Bethesda, MD 20892, (301) 435–0684, *wieschd@csr.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: Center for Scientific Review Special Emphasis Panel, Member Conflicts: Learning and Memory.

Date: September 24–25, 2007.

Time: 6 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Virtual Meeting)

Contact Person: John Bishop, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5180, MSC 7844, Bethesda, MD 20892, (301) 435–1250, *bishop@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Corneal Biochemistry and Cell Biology.

Date: September 24, 2007.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 1250 22nd Street, NW., Washington, DC 20037.

Contact Person: Biao Tian, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, MSC 7848, Bethesda, MD 20892, 301–402–4411, *tianbi@csr.nih.gov*.

Name of Committee: Health of Population Integrated Review Group, Behavioral Genetics and Epidemiology Study Section.

Date: October 1–2, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Grand Hyatt Washington, 1000 H Street, NW., Washington, DC 20001.

Contact Person: Elisabeth Koss, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3152, MSC 7770, Bethesda, MD 20892, (301) 435–1721, *kosse@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Brain Injury: SRA Conflict.

Date: October 1–2, 2007.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Latham Hotel Georgetown, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Boris P. Sokolov, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5217A, MSC 7846, Bethesda, MD 20892, 301–435–1197, *bsokolov@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel Oncology Area.

Date: October 1, 2007.

Time: 2 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Lambratu Rahman, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, 301–451–3493, *rahmanl@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Somatosensory and Chemosensory Systems Study Section.

Date: October 2–3, 2007.

Time: 8. a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington Embassy Row, 2015 Massachusetts Avenue, NW., Washington, DC 20036.

Contact Person: Daniel R. Kenshalo, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5182, MSC 7844, Bethesda, MD 20892, 301–435–1255, *kenshalod@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Synthetic and Biological Chemistry A Study Section.

Date: October 3–4, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: State Plaza Hotel, 2117 E Street, NW., Washington, DC 20037.

Contact Person: Kathryn M. Koeller, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, 301–435–2681, *koellerk@csr.nih.gov*.

Name of Committee: Digestive Sciences Integrated Review Group, Xenobiotic and Nutrient Disposition and Action Study Section.

Date: October 3, 2007.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Patricia Greenwel, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2174, MSC 7818, Bethesda, MD 20892, 301–435–1169, *greenwep@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Synthetic and Biological Chemistry.

Date: October 3, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: State Plaza Hotel, 2117 E Street, NW., Washington, DC 20037.

Contact Person: John L. Bowers, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4170, MSC 7806, Bethesda, MD 20892, (301) 435–1725, *bowersj@csr.nih.gov.*

Name of Committee: Integrative, Functional and Cognitive Neuroscience

Integrated Review Group, Auditory System Study Section.

Date: October 3–4, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.

Contact Person: Edwin C. Clayton, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5095C, MSC 7844, Bethesda, MD 20892, (301) 402–1304, *claytone@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel, Topics in Virology.

Date: October 3, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Hotel Union Square, 480 Sutter Street, San Francisco, CA 94108.

Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3200, MSC 7848, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Cellular and Molecular Biology of Glia Study Section.

Date: October 3–4, 2007.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Toby Behar, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4136, MSC 7850, Bethesda, MD 20892, (301) 435–4433, *behart@csr.nih.gov.*

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Clinical Research and Field Studies of Infectious Diseases Study Section.

Date: October 3, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Suites, 701 A Street, San Diego, CA 92101.

Contact Person: Alexander D. Politis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov.*

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group, Surgery, Anesthesiology and Trauma Study Section.

Date: October 3–4, 2007.

Time: 1 p.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Weihua Luo, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5114, MSC 7854, Bethesda, MD 20892, (301) 435–1170, *luow@csr.nih.gov.*

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Macromolecular Structure and Function C Study Section.

Date: October 4–5, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Washington, Pennsylvania Avenue at 15th Street, NW., Washington, DC 20004.

Contact Person: Arnold Revzin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4146, MSC 7824, Bethesda, MD 20892, (301) 435–1153, *revzina@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group, Development-2 Study Section.

Date: October 4–5, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, NW., Room 101, Washington, DC 20037.

Contact Person: Neelakanta Ravindranath, PhD, MVSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5140, MSC 7843, Bethesda, MD 20892, 301–435–1034, *ravindrn@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group, Membrane Biology and Protein Processing Study Section.

Date: October 4, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Palomar, 2121 P Street, NW., Washington, DC 20037.

Contact Person: Janet M. Larkin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1102, MSC 7840, Bethesda, MD 20892, 310–435–1026, *larkinja@csr.nih.gov.*

Name of Committee: Cardiovascular Sciences Integrated Review Group, Myocardial Ischemia and Metabolism Study Section.

Date: October 4–5, 2007.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: The Latham Hotel, 3000 M Street, NW., Washington, DC 20007.

Contact Person: Joyce C. Gibson, DSC, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4130, MSC 7814, Bethesda, MD 20892, 301–435–4522, *gibsonj@csr.nih.gov.*

Name of Committee: Biology of Development and Aging Integrated Review Group, Cellular Mechanisms in Aging and Development Study Section.

Date: October 4–5, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: James P. Harwood, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7840, Bethesda, MD 20892, 301–435–1256, *harwoodj@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Molecular Genetics B Study Section.

Date: October 4–5, 2007.

Time: 8 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Admiral Fell Inn, 888 South Broadway, Baltimore, MD 21231.

Contact Person: Richard A. Currie, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5128, MSC 7840, Bethesda, MD 20892, (301) 435–1219, *currieri@csr.nih.gov.*

Name of Committee: Oncological Sciences Integrated Review Group, Chemo/Dietary Prevention Study Section.

Date: October 4–5, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington DC/Silver Spring Hotel, 8727 Colesville Road, Silver Spring, MD 20910.

Contact Person: Sally A. Mulhern, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6198, MSC 7804, Bethesda, MD 20892, (301) 435–5877, *mulherns@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group.

Date: October 4, 2007.

Time: 8 a.m. to 6:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20814.

Contact Person: Nancy Sheard, SCD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6046–E, MSC 7892, Bethesda, MD 20892, 301–435–1154, *sheardn@csr.nih.gov.*

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group, Molecular Genetics C Study Section.

Date: October 4–5, 2007.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.

Contact Person: Barbara Whitmarsh, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2206, MSC 7890, Bethesda, MD 20892, 301/435–4511, *whitmarshb@csr.nih.gov.*

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Integrative Physiology of Obesity and Diabetes Study Section.

Date: October 4–5, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites DC Convention Center, 900 10th Street, NW., Washington, DC 20001.
Contact Person: Reed A. Graves, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6166, MSC 7892, Bethesda, MD 20892, (301) 402–6297, *gravesr@csr.nih.gov*.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group, Neurobiology of Learning and Memory Study Section.
Date: October 4–5, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: One Washington Circle Hotel, One Washington Circle, Washington, DC 20037.
Contact Person: Bernard F. Dirscoll, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *driscolb@csr.nih.gov*.

Name of Committee: Cell Biology Integrated Review Group, Biology and Diseases of the Posterior Eye Study Section.
Date: October 4–5, 2007.
Time: 8 a.m. to 5:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Michael H. Chaitin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Member Conflict: Vision.
Date: October 4, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).
Contact Person: Judith A. Finkelstein, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5178, MSC 7844, Bethesda, MD 20892, 301–435–1249, *finkelsj@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Molecular Neuropharmacology and Signaling Study Section.
Date: October 4–5, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Georgetown Suites, 1111 30th Street, NW., Washington, DC 20007.
Contact Person: Deborah L. Lewis, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118, MSC 7850, Bethesda, MD 20892, (301) 435–1224, *lewisdeb@csr.nih.gov*.

Name of Committee: Hematology Integrated Review Group, Hematopoiesis Study Section.
Date: October 4–5, 2007.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Marriott Bethesda, 5151 Pooks Hill Road, Bethesda, MD 20814.
Contact Person: Robert T. Su, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4134, MSC 7802, Bethesda, MD 20892, (301) 435–1195, *sur@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group, Vaccines Against Microbial Diseases Study Section.
Date: October 4–5, 2007.
Time: 8 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Jian Wang, MD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4218, MSC 7812, Bethesda, MD 20892, (301) 435–2778, *wangjia@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group, Hypersensitivity, Autoimmune, and Immune-mediated Diseases Study Section.
Date: October 4–5, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.
Contact Person: Bahiru Gametchu, DVM, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4204, MSC 7812, Bethesda, MD 20892, 301–435–1225, *gametchb@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Virology—B Study Section.
Date: October 4–5, 2007.
Time: 8 a.m. to 2:30 p.m.
Agenda: To review and evaluate grant applications.
Place: Crowne Plaza Hotel Union Square, 480 Sutter Street, San Francisco, CA 94108.
Contact Person: Robert Freund, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3200, MSC 7848, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov*.

Name of Committee: Oncological Sciences Integrated Group, Tumor Microenvironment Study Section.
Date: October 4–5, 2007.
Time: 8 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.
Contact Person: Eun Ah Cho, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6202, MSC 7804, Bethesda, MD 20892, (301) 451–4467, *choe@csr.nih.gov*.

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group, Behavioral Medicine, Interventions and Outcomes Study Section.
Date: October 4–5, 2007.
Time: 8:30 a.m. to 4 p.m.
Agenda: To review and evaluate grant applications.
Place: The Madison, A Loews Hotel, 1177 15th Street, NW., Washington, DC 20005.
Contact Person: Lee S. Mann, JD, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3186, MSC 7848, Bethesda, MD 20892, 301–435–0677, *mannl@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group, Neurogenesis and Cell Fate Study Section.
Date: October 4–5, 2007.
Time: 8:30 a.m. to 6 p.m.
Agenda: To review and evaluate grant applications.
Place: Melrose Hotel, 2430 Pennsylvania Ave., NW., Washington, DC 20037.
Contact Person: Lawrence Baizer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7850, Bethesda, MD 20892, (301) 435–1257, *baizerl@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Intercellular Interactions.
Date: October 4, 2007.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue, NW., Washington, DC 20036.
Contact Person: David Balasundaram, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5189, MSC 7840, Bethesda, MD 20892, 301–435–1022, *balasundaramd@csr.nih.gov*.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group, Virology—A Study Section.
Date: October 4–5, 2007.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Crowne Plaza Hotel, 480 Sutter Street, San Francisco, CA 94108.
Contact Person: Joanna M. Pyper, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3198, MSC 7808, Bethesda, MD 20892, (301) 435–1151, *pyperj@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group, Immunity and Host Defense Study Section.
Date: October 4–5, 2007.
Time: 8:30 a.m. to 5 p.m.
Agenda: To review and evaluate grant applications.
Place: Key Bridge Marriott, 1401 Lee Highway, Arlington, VA 22209.

Contact Person: Patrick K. Lai, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2215, MSC 7812, Bethesda, MD 20892, 301–435–1052, *laip@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group, Biomaterials and Biointerfaces Study Section.

Date: October 4, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel, Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alexander Gubin, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5144, MSC 7812, Bethesda, MD 20892, 301–435–2902, *gubina@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Biochemistry and Biophysics of Membranes Study Section.

Date: October 4–5, 2007.

Time: 8:30 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Churchill Hotel, 1914 Connecticut Avenue, NW., Washington, DC 20009.

Contact Person: Nuria E. Assa-Munt, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4164, MSC 7806, Bethesda, MD 20892, (301) 451–1323, *assamunu@csr.nih.gov*.

Name of Committee: Endocrinology, Metabolism, Nutrition and Reproductive Sciences Integrated Review Group, Integrative Nutrition and Metabolic Processes Study Section.

Date: October 4–5, 2007.

Time: 8:30 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: Oakland Marriott City Center, 1001 Broadway, Oakland, CA 94607.

Contact Person: Sooja K. Kim, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6182, MSC 7892, Bethesda, MD 20892, (301) 435–1780, *kims@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group, Enabling Bioanalytical and Biophysical Technologies Study Section.

Date: October 4, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Plaza Hotel, 10 Thomas Circle, NW., Washington, DC 20005.

Contact Person: Vonda K. Smith, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7806, Bethesda, MD 20892, 301–435–1789, *smithvo@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Shared Instrumentation Grant Program: Surface Plasmon Resonance (SPR) Instruments.

Date: October 4, 2007.

Time: 1 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Stephen M. Nigida, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4212, MSC 7812, Bethesda, MD 20892, 301–435–1222, *nigidas@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 30, 2007.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–4397 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Use of Lecithin-Cholesterol Acyltransferase (LCAT) To Reduce Accumulation of Cholesterol

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This is notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(i), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of an exclusive license worldwide to practice the invention embodied in United States Patent Number 6,635,614 titled ''Use of Lecithin-Cholesterol Acyltransferase (LCAT) to Reduce Accumulation of Cholesterol,'' referenced at DHHS as E–007–1996/0–US–03, and corresponding foreign patent application(s) and issued patent(s), to AlphaCore Pharma, Inc. having a place of business in the state of Michigan. The field of use may be limited to the following: FDA or similar foreign body approved cardiovascular and nephropathy therapeutic. The United States of America is the assignee of the patent rights in this invention. The territory may be worldwide. This announcement is the first notice to grant an exclusive license to this technology.

DATES: Only written comments and/or application for a license, which are received by the NIH Office of Technology Transfer on or before November 9, 2007 will be considered.

ADDRESSES: Requests for a copy of the patent applications, inquiries, comments and other materials relating to the contemplated license should be directed to: Fatima Sayyid, Technology Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 435–4521; Facsimile: (301) 402–0220; e-mail: *Fatima.Sayyid@nih.hhs.gov.*

SUPPLEMENTARY INFORMATION: The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Dated: August 29, 2007.

David R. Sadowski,

Deputy Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–17732 Filed 9–7–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Project: Protection and Advocacy for Individuals With Mental Illness (PAIMI) Annual Program Performance Report (OMB No. 0930–0169)—Revision

The Protection and Advocacy for Individuals with Mental Illness (PAIMI) Act, [42 U.S.C. 10801 *et seq.*] authorized funds to support protection and advocacy services on behalf of individuals with severe mental illness and severe emotional impairment who are at risk for abuse (including incidents of seclusion, restraint, and serious injuries or fatalities related to such incidents, neglect, residing in a public or private care or treatment facility. The PAIMI Program is managed by the Center for Mental Health Services (CMHS) within the Substance Abuse and Mental Health Services Administration (SAMHSA).

Under the PAIMI Act, formula grant awards are made to governor-designated protection and advocacy (P&A) systems in each of the 50 states, the District of Columbia (Mayor), the American Indian Consortium [the Dine (Navajo) and Hopi Peoples in Northern Arizona and New Mexico], and five (5) jurisdictions—American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the U.S. Virgin Islands. The awards are used to provide legal-based advocacy services which ensure protection against violation of the constitutional and federal rights of individuals with significant (severe) mental illness (adults) and significant (severe) emotional impairment.

In 2000, the PAIMI Act amendments, created a 57th P&A system—the American Indian Consortium and authorized P&A systems to serve PAIMI-eligible individuals, as defined under the Act [42 U.S.C. at 10802 (4)], who reside in the community including their own homes. However, P&A services to PAIMI-eligible clients residing in the community is permissible only when the annual PAIMI appropriation met or exceeded $30 million, and that residents in public and private residential care or treatment facilities had service priority over community residents. The Children's Health Act of 2000 (CHA) [42 U.S.C. 290aa *et seq.*], also referenced State P&A authority to obtain information on incidents of seclusion, restraint, and related deaths in certain facilities.

The PAIMI Act requires each of the 57 P&A systems to file an annual report, no later than January 1st, of its activities and accomplishments and to provide information on such topics as, the numbers of individuals served, types of complaints addressed, and the number of intervention strategies used to resolve the presenting issues. Under the Act, the PAIMI Advisory Council (PAC) of each P&A system is also required to submit its independent assessment of the effectiveness of the services provided to, and the activities conducted by, the P&A systems on behalf of PAIMI-eligible individuals and their family members, in a separate section of the Program Performance Report (PPR).

The Developmental Disabilities Assistance and Bill of Rights Act of 1975, referred to as the DD Act [42 U.S.C. 6042 *et seq.*], created the State P&A systems. The Administration on Developmental Disabilities (ADD), within the Administration for Children and Families, has administrative oversight of the Protection and Advocacy for Developmental Disabilities (PADD) Program. Since 1986, the Department has provided formula grant funds to the same governor-designated P&A systems to protect and advocate for individuals with significant mental illness. SAMHSA is currently waiting for the ADD to issue a Notice of Proposed Rulemaking (NPR) for the DD Act of 2000 amendments. These amendments will also govern activities fulfilled by the State P&A systems under the PAIMI Act. Therefore, to ensure to the greatest extent possible that all facets of the P&A system administered by the Department are subject to the same requirements, SAMHSA will wait until the DD Act NPR is published before revising the PAIMI Rules. [The Final PAIMI Rules were issued in 1997 and were extended in 2000 and 2004. An FRN was published May 2006 to extend the current PAIMI Rules, which will expire in 2007, until 2010].

SAMHSA is revising the PAIMI Annual PPR for the following reasons: (1) To make it consistent with the requirements of the annual reporting requirements under the PAIMI Act and the PAIMI Rules [42 CFR Part 51] and the CHA of 2000 Parts H and I; (2) to conform with the Office of Management and Budget's (OMB) findings and recommendations from the FY 2005 Program Assessment Rating Tool (PART) review of the PAIMI Program; (3) to broaden the category of deaths investigated by the State P&A systems; (4) to reduce the reporting burdens for the State P&A systems and the PAIMI PAC in certain areas; and, (5) to enhance the PAC section by providing better information on its role, responsibility, and authority on P&A system PAIMI activities and services.

Planned revisions to the PAIMI Annual PPR and the PAC included the following items:

(1) Changing the fonts to improve readability;

(2) Adding Tables of Content and Glossaries to the PPR and Advisory Council Report (ACR) sections;

(3) Reducing the reporting burden in Section 2. PAIMI Program Priorities and Objectives by requesting only one case example per priority (goal) rather than per objective;

(4) Revising Sections: 2. PAIMI Program Priorities (Goals) and Objectives: 4. Case Complaints/Problems of Individuals; and, 5. Intervention Strategies on Behalf of Groups of PAIMI-eligible Individuals, for consistency with the findings and recommendations from the OMB, 2005 PART evaluation/assessment of the PAIMI Program and to clarify and/or enhance the instructional guidance for determining activity/intervention outcomes and estimating the number of individuals or groups impacted by P&A system activities/interventions in sections 4 and 5;

(5) Expanding Section 4.E.2. by adding an item c. for the number of death investigation activities not related to incidents of seclusion and restraint;

(6) Providing the applicable PAIMI citations to the guidance in Section 8. Other Services & Activities.

(7) Modifying the ACR, Sections B. PAC Membership and C. PAC Ethnicity/Racial Diversity for consistency with the format used in the PAIMI Application for FY 2007–2009;

(8) Enhancing Section F. PAC Activities to include the applicable citations that will provide each PAC with better information on its authority, role, and responsibilities as the P&A governing authority.

(9) Revising Section G. PAIMI Assessment of PAIMI Program Operations, by eliminating the previous requirement that the PAC comment on each P&A system annual priority and objective. The PAC will only submit a summary of its assessment of the P&A system's annual PAIMI Program priorities, objectives, activities and program operations;

(10) Adding an additional item to Section G. to identify the training and technical assistance needs of each PAC; and,

(11) Adding the applicable citations to Section H. Grievance Procedures to provide the PAC with better information on its authority, role, and responsibilities.

The revised report formats will be effective for the report due on January 1, 2008.

The annual burden estimate is as follows:

	Number of respondents	Number of responses per respondent	Hours per response	Total hour burden
Annual Program Performance Report	57	1	26	1,482
Activities & Accomplishments			(20)	(1,140)
Performance outcomes			(3)	(171)
Expenses			(1)	(57)
Budget			(1)	(57)
Priority statements & objectives			(1)	(57)
Advisory Council Report	57	1	10	570
Total	114			2,052

Written comments and recommendations concerning the proposed information collection should be sent by October 10, 2007 to: SAMHSA Desk Officer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503; due to potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, respondents are encouraged to submit comments by fax to: 202–395–6974.

Dated: August 31, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E7–17764 Filed 9–7–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Outer Continental Shelf (OCS), Western and Central Gulf of Mexico (GOM), Oil and Gas Lease Sales for Years 2009–2012

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Call for Information and Nominations/Notice of Intent (Call/NOI) to Prepare a Supplemental Environmental Impact Statement (SEIS).

SUMMARY: On April 28, 2006, MMS issued a Call for 11 lease sales in the Western and Central GOM planning areas included in the draft proposed 2007–2012 OCS Oil and Gas Leasing Program. After that Call the Congress enacted a mandate, in the Gulf of Mexico Energy Security Act of 2006 (GOMESA) (Pub. L. 109–432, December 20, 2006), that MMS offer, as soon as practicable, approximately 5.8 million acres located in the southeastern part of the Central Planning Area (CPA) referred to as the ''181 South Area.'' Central GOM Sale 208 (March 2009) will be the first sale to include the ''181 South Area.'' The purpose of this Call is to gather information on oil and gas leasing, exploration, and development that might result from the four Central GOM OCS oil and gas lease sales tentatively scheduled in 2009–2012, in particular regarding the ''181 South Area.'' The purpose of this NOI is to announce MMS's intent to prepare a SEIS on the four Central and three Western GOM OCS oil and gas lease sales tentatively scheduled in 2009–2012. Comments received in response to the NOI will assist MMS in developing the scope of the SEIS.

DATES: Comments on the Call must be received no later than October 10, 2007 and comments on the NOI must be received no later than October 25, 2007 at the addresses specified below.

FOR FURTHER INFORMATION CONTACT: For information on this Call, please contact Mr. Carrol Williams, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard (MS 5422), New Orleans, Louisiana 70123–2394, telephone (504) 736–2803. For information on the NOI, you may contact Mr. Dennis Chew, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard (MS 5412), New Orleans, Louisiana 70123–2394, telephone (504) 736–2793.

SUPPLEMENTARY INFORMATION: The GOMESA, (Pub. L. 109–432, December 20, 2006), mandated MMS to offer approximately 5.8 million acres in the CPA (formerly the ''181 South Area'' was an area under Congressional moratoria and Presidential withdrawal for oil and gas leasing ''as soon as practicable after the date of enactment of this Act.'' This Call/NOI is the initial step in the prelease process for a sale within that 181 South Area. To fully comply with all pertinent laws, rules, and regulations and to allow the public an adequate opportunity to participate in the National Environmental Policy Act (NEPA) process, the earliest MMS would be able to offer this area would be March 2009.

The SEIS will update the environmental and socioeconomic analyses in the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2007–2012; Western Planning Area Sales 204, 207, 210, 215, and 218; Central Planning Area Sales 205, 206, 208, 213, 216, and 222, Final Environmental Impact Statement* (OCS EIS/EA MMS 2007–018) (Multisale EIS) and will address the addition of the ''181 South Area.''

Call for Information and Nominations

1. Authority

This Call is published pursuant to the Outer Continental Shelf Lands Act (OCSLA) as amended (43 U.S.C. 1331–1356), and the regulations issued thereunder (30 CFR part 256).

2. Purpose of Call

The purpose of the Call is to gather information for the following tentatively scheduled OCS lease sales:

Lease sale, OCS planning area	Sale year
Sale 208, Central GOM	2009
Sale 213, Central GOM	2010
Sale 216, Central GOM	2011
Sale 222, Central GOM	2012

Information on oil and gas leasing, exploration, development, and production within this portion of the CPA is sought from all interested parties. This early planning and consultation step is important for ensuring that all interests and concerns are communicated to the Department of the Interior for future decisions in the leasing process pursuant to the OCSLA and regulations at 30 CFR part 256.

This Call is in response to the mandate within GOMESA to offer additional acreage in the southeastern portion of the Central Planning Area as depicted on the map at the end of this notice. Leasing within this area will be in compliance with applicable laws including all requirements of the NEPA, Coastal Zone Management Act (CZMA) and OCSLA. Established Departmental procedures will be employed.

3. Description of Area

The general area of this Call covers approximately 5.8 million acres in the Central GOM planning area, south of the Sale 181 Area. The area is south of eastern Alabama and western Florida; the nearest point of land is 125 miles northwest in Louisiana. A standard Call for Information Map depicting this portion of the CPA is available without charge from the Minerals Management Service, Public Information Office (MS 5034), 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or by telephone at 1–800–200–GULF. The map is also available via the MMS Web site at *http://www.mms.gov*.

4. Instructions on Call

Comments must be received no later than 30 days following publication of this document in the **Federal Register** in envelopes labeled ''Comments on the Call for Information for Proposed 2009–2012 Lease Sales in the Central Gulf of Mexico,'' submitted to the Gulf of Mexico OCS Region's Leasing Activities Section (Attention: Mr. Carrol Williams) at the previously noted address.

The standard Call for Information Map delineates the Call area, all of which has been identified by MMS as having potential for the discovery of accumulations of oil and gas.

Comments are sought from all interested parties about particular geological, environmental (including natural disasters), biological, archaeological, and socioeconomic conditions or conflicts, or other information that might bear upon the potential leasing and development of this area. Comments are also sought on potential conflicts between future OCS oil and gas activities that may result from the proposed lease sales and State Coastal Management Programs (CMPs). If possible, these comments should identify specific CMP policies of concern, the nature of the conflict foreseen, and steps that MMS could take to avoid or mitigate the potential conflict. Comments may be in terms of broad areas or restricted to particular blocks of concern. Those submitting comments are requested to list block numbers or outline the subject area on the standard Call for Information Map.

5. Use of Information From Call

Information submitted in response to this Call will be used for several purposes. First, comments on possible environmental effects and potential use conflicts will be used in the analysis of environmental conditions in and near the Call area. Comments on environmental and other use conflicts will be used to make a preliminary determination of the potential advantages and disadvantages of oil and gas exploration and development to the region and the Nation. A second purpose for this Call is to use the comments collected in the scoping process to develop proposed actions and alternatives. Third, comments may be used in developing lease terms and conditions to ensure environmentally safe offshore operations, and, fourth, comments may be used to assess potential conflicts between offshore gas and oil activities and State CMPs.

6. Existing Information

The MMS routinely assesses the status of information acquisition efforts and the quality of the information base for potential decisions on a tentatively scheduled lease sale. An extensive environmental studies program has been underway in the GOM since 1973. The emphasis, including continuing studies, has been on ''environmental analysis'' of biologically sensitive habitats, physical oceanography, ocean-circulation modeling, and ecological effects of oil and gas activities. In response to impacts from Hurricanes Katrina and Rita, the MMS is funding studies regarding hurricane risks to onshore structures and their surrounding communities and environment. Socioeconomic profiles of communities with a high concentration of OCS-related activity are assessing the social and environmental impacts of the 2005 hurricanes. These studies will also evaluate the effects of hurricane-related employment shifts on onshore labor and coastal communities. In addition, the MMS has awarded a number of studies to determine the impact of Hurricane Ivan on offshore oil and gas structures. These studies were designed to analyze and assess the damage to structures and pipelines, determine the effectiveness of current design standards and pollution-prevention systems, and develop recommendations for potential changes to industry standards and MMS regulations, if needed. Results of these studies will also apply to the impacts of Hurricanes Katrina and Rita and future hurricanes.

You may obtain a complete listing of available study reports and information for ordering copies from the Public Information Office referenced above. You may also order the reports for a fee from the U.S. Department of Commerce, National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161, or telephone (703) 605–6000 or (800) 553–6847. In addition, you may obtain a program status report for continuing studies in this area from the Chief, Environmental Sciences Section (MS 5430), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, or telephone (504) 736–2752, or via the MMS Web site at *http://www.gomr.mms.gov/homepg/regulate/environ/studiesprogram.html*.

7. Tentative Schedule

Call for Information and Nominations	August 2007.
NOI to Prepare a SEIS	August 2007.
Comments Received on Call/NOI	September–October 2007.
Scoping Meetings	October 2007.
Area Identification Decision	October–November 2007.
Draft SEIS Published	April 2008.
Public Hearings on Draft SEIS	May–June 2007.
Final SEIS Published	October 2008.
Proposed Notice of Sale and Coastal Zone Management Consistency Determination	5 months before lease sale.
Final Notice of Sale	1 month before lease sale.

Notice of Intent To Prepare a Supplemental Environmental Impact Statement

1. Authority

The NOI is published pursuant to the regulations (40 CFR 1501.7) implementing the provisions of the NEPA of 1969, as amended (42 U.S.C. 4321 et seq. (1988)).

2. Purpose of Notice of Intent

Pursuant to the regulations implementing the procedural provisions of NEPA, MMS is announcing its intent to prepare a SEIS on oil and gas lease sales tentatively scheduled in 2009–2012 in the Western and Central GOM offshore the States of Texas, Louisiana, Mississippi, and Alabama. The SEIS will update the analyses in the

Multisale EIS. The NOI also serves to announce the scoping process for this SEIS. Throughout the scoping process, Federal, state, and local government agencies and other interested parties have the opportunity to aid MMS in determining the significant issues and alternatives for analysis in the SEIS. The SEIS analysis will focus on the potential environmental effects of oil and natural gas leasing, exploration, development, and production in the ''181 South Area,'' and any new information available since the publication of the Multisale EIS.

In an effort to reevaluate and improve the scenarios for OCS lease sales presented in its NEPA documents, the MMS is also using this scoping opportunity to solicit input on previous forecasts and present methods of forecasting[TZ (LD)8] exploration and development activity, pipeline landfalls, and onshore waste disposal sites. Federal, state, and local government agencies; industry; and the public are encouraged to comment on recently published reports prepared by MMS. These reports can be found at *http://www.gomr.mms.gov/homepg/regulate/environ/nepa/nepaprocess.html*.

3. Supplemental Information

As mandated in the recently enacted GOMESA, MMS shall offer the ''181 South Area'' for oil and gas leasing pursuant to the OCSLA (43 U.S.C. 1331 *et seq.*). In March 2009, proposed Lease Sale 208 would be the first CPA sale to offer the ''181 South Area.'' The MMS is proposing to prepare a SEIS to address the addition of the ''181 South Area'' and any new information available since the publication of the Multisale EIS. The resource estimates and scenario information for the SEIS analyses will be presented as a range that would encompass the resources and activities estimated for any of the seven proposed lease sales. At the completion of this SEIS process, a decision will be made for proposed Central Sale 208 (2009) and Western Sale 210 (2009).

This SEIS will supplement the *Gulf of Mexico OCS Oil and Gas Lease Sales: 2007–2012; Western Planning Area Sales 204, 207, 210, 215, and 218; Central Planning Area Sales 205, 206, 208, 213, 216, and 222, Final Environmental Impact Statement* (OCS EIS/EA MMS 2007–018). For more information on the SEIS, you may contact Dennis Chew, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard (MS 5412), New Orleans, Louisiana 70123–2394, or by e-mail at environment@mms.gov. You may also contact Mr. Chew by telephone at (504) 736–2793.

4. Cooperating Agency

The MMS invites other Federal agencies and state, tribal, and local governments to consider becoming cooperating agencies in the preparation of the SEIS. We invite qualified government entities to inquire about cooperating agency status for the SEIS. Following the guidelines from the Council on Environmental Quality (CEQ), qualified agencies and governments are those with ''jurisdiction by law or special expertise.'' Potential cooperating agencies should consider their authority and capacity to assume the responsibilities of a cooperating agency and note that an agency's role in the environmental analysis neither enlarges nor diminishes the final decisionmaking authority of any other agency involved in the NEPA process. Upon request, the MMS will provide potential cooperating agencies with a written summary of ground rules for cooperating agencies, including time schedules and critical action dates, milestones, responsibilities, scope and detail of cooperating agencies' contributions, and the availability of pre-decisional information. The MMS anticipates this summary will form the basis for a Memorandum of Understanding between MMS and each cooperating agency. Agencies should also consider the ''Factors for Determining Cooperating Agency Status'' in Attachment 1 to CEQ's January 30, 2002, Memorandum for the Heads of Federal Agencies: Cooperating Agencies in Implementing the Procedural Requirements of the National Environmental Policy Act. A copy of this document is available at *http://ceq.eh.doe.gov/nepa/regs/cooperating/cooperatingagenciesmemorandum.html* and *http://ceq.eh.doe.gov/nepa/regs/cooperating/cooperatingagency memofactors.html*.

The MMS, as the lead agency, will not provide financial assistance to cooperating agencies. Yet, even if an organization is not a cooperating agency, opportunities exist to provide information and comments to MMS during the normal public input phases of the NEPA/SEIS process. If further information about cooperating agencies is needed, please contact Mr. Dennis Chew at (504) 736–2793.

5. Comments

Federal, state, and local government agencies and other interested parties are requested to send their written comments on the scope of the SEIS, significant issues that should be addressed, alternatives that should be considered, and scenario development in one of the following two ways:

1. In written form enclosed in an envelope labeled ''Comments on the Supplemental Multisale EIS'' and mailed (or hand carried) to the Regional Supervisor, Leasing and Environment (MS 5410), Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394.

2. Electronically to the MMS e-mail address: *environment@mms.gov*.

Comments should be submitted no later than 45 days from the publication of this NOI.

Notice of Public Scoping Meetings on the Supplemental Environmental Impact Statement

Pursuant to the regulations implementing the procedural provisions of NEPA (42 U.S.C. 4321 *et. seq.*), the MMS will hold public scoping meetings in Texas, Louisiana, and Alabama on the SEIS for the tentatively scheduled 2009–2012 oil and gas leasing proposal in the Western and Central GOM. While the purpose of these meetings will be to solicit comments on the scope of the SEIS, MMS is also using this opportunity to solicit input on previous forecasts and current forecasting methods of exploration and development activity, pipeline landfalls, and onshore waste disposal sites associated with OCS lease sales. Federal, state, and local government agencies; industry; and the public are encouraged to comment on recently published reports prepared by MMS. These reports can be found at *http://www.gomr.mms.gov/homepg/regulate/environ/nepa/nepaprocess.html*.

The public scoping meetings are scheduled as follows:

- Tuesday, October 9, 2007, Larose Civic Center, Larose Regional Park, Larose, Louisiana, 7 p.m.
- Wednesday, October 10, 2007, The Woods Auditorium in the Energy, Coast and Environment Building at the Louisiana State University Campus, Baton Rouge, Louisiana, 1 p.m.
- Thursday, October 11, 2007, Riverview Plaza Hotel, 64 South Water Street, Mobile, Alabama, 7 p.m.
- Thursday, October 11, 2007, Marriott Houston Intercontinental at George Bush Intercontinental, 18700 John F. Kennedy Boulevard, Houston, Texas, 1 p.m.

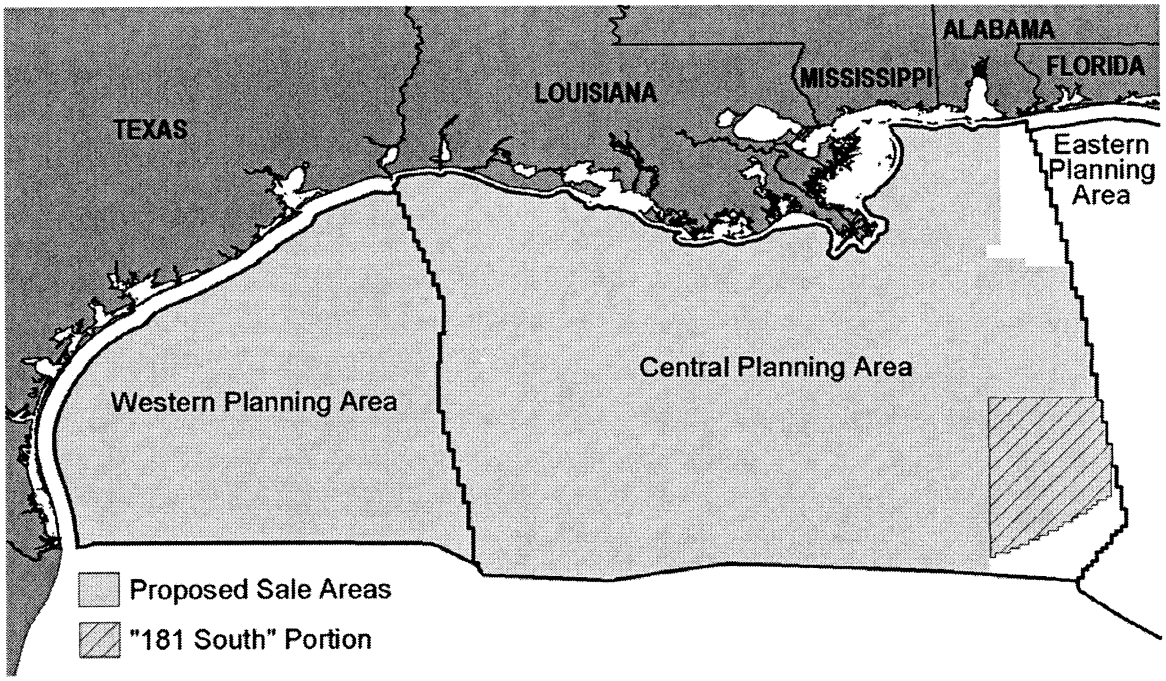
For further information about the scoping meetings, contact Mr. Dennis Chew, Minerals Management Service, Gulf of Mexico OCS Region, 1201 Elmwood Park Boulevard (MS 5412),

New Orleans, Louisiana 70123–2394, telephone (504) 736–2793.

Dated: August 24, 2007.

Randall B. Luthi,

Director, Minerals Management Service.



[FR Doc. E7–17737 Filed 9–7–07; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

30-Day Notice of Submission of Study Package to the Office of Management and Budget; Opportunity for Public Comment (OMB #1024–xxxx, ''2007 National Park Service Comprehensive Survey of the American Public'')

AGENCY: Department of the Interior, National Park Service.

ACTION: Notice and request for comments.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 and 5 CFR Part 1320, Reporting and Recordkeeping Requirements, the National Park Service (NPS) invites public comments on a proposed new collection of information (OMB# 1024–xxxx). The 30-Day **Federal Register** Notice for this collection of information was published on August 28, 2007 (Volume 72, Number 166, Pages 49303–49305). There are a few corrections that need to be added to the previous publication of this **Federal Register** Notice. Under the heading Estimated average number of respondents, the words that should be added at the end are ''and 4750 non-respondents''. Under the heading Estimated average number of responses, the answer should be: 8,794 responses (4,044 respondents and 4,750 non-respondents). Under the heading Estimated average time burden per respondent, the information that should be added should read ''Non-respondents: 1 minute/respondent''. Under the heading Estimated total annual reporting burden, the information should be 1,144 hours. If you have any questions or concerns regarding this matter, please contact Mr. Leonard E. Stowe, NPS, Information Collection Clearance Office, 1849 C St., NW., (2605), Washington, DC 20240; or via fax at 202/371–1427; or via e-mail at *leonard__stowe@nps.gov*.

Dated: August 30, 2007.

Leonard E. Stowe,

NPS, Information Collection Clearance Office.

[FR Doc. 07–4413 Filed 9–7–07; 8:45 am]

BILLING CODE 4312–52–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Record of Decision (ROD) on the Final General Management Plan/Environmental Impact Statement (FGMP/EIS), Castillo de San Marcos National Monument

SUMMARY: The National Park Service (NPR) announces the availability of the ROD on the FGMP/EIS for Castillo de San Marcos National Monument, Florida.

On June 11, 2007, the Regional Director, NPS, Southeast Region, approved the ROD for the project. As soon as practicable, the NPS will begin to implement the FGMP/EIS, described as the Preferred Alternative contained in the FGMP/EIS issued on May 4, 2007. The approved plan will enhance opportunities for visitors to interact with and appreciate the national monument's resources while providing for the preservation and protection of the park's resources when implemented. The approved alternative will enhance the visitor experience by removing some modern intrusions from the Castillo and from the exterior landscapes. The visitor center authorized by Public Law 108–480, pending availability and approval of capital and operational funding,

would be constructed off-site and convenient to the park and St. Augustine's Spanish Quarter. The authority for publishing this notice is 42 U.S.C. 4332(2)(C).

DATES: The ROD was signed by the Regional Director, NPS, Southeast Region, on June 11, 2007.

ADDRESSES: Copies of the ROD are available from the Superintendent, Castillo de San Marcos National Monument, 1 South Castillo Drive, St. Augustine, Florida 32084; telephone: 904–829–6506.

FOR FURTHER INFORMATION CONTACT: The Superintendent, Castillo de San Marcos National Monument, at the address and telephone number shown above or David Libman at 404–562–3124, extension 685.

The responsible official for the ROD is Patricia A. Hooks, Regional Director, Southeast Region, National Park Service, 100 Alabama Street, SW., 1924 Building, Atlanta, Georgia 30303.

Dated: August 10, 2007.

Patricia A. Hooks,

Regional Director, Southeast Region.

[FR Doc. 07–4412 Filed 9–7–07; 8:45 am]

BILLING CODE 4312–75–M

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before August 25, 2007. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by September 25, 2007.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

Alabama

Jefferson County

Center Street Historic District, (Civil Rights Movement in Birmingham, Alabama 1933–1979 MPS) 940–1145 Center St.; 2–9th Ct. W.; 4–10th Ave. N.; 2–4 10th Ct. N.; 16–24 11th Ave. N.; 1–2 11th Ct. N., Birmingham, 07001027

Arkansas

Washington County

West Dickdon Street Commercial Historic District, Dickson St. between Arkansas Ave. & St. Charles Ave. & West Ave. between Dickson St. & Lafayette St., Fayetteville, 07001028

Florida

Duval County

Hutchinson—Suddath Building, (Downtown Jacksonville MPS) 315–319 E. Bay St., Jacksonville, 07001029

Indiana

Posey County

Harmony Way Bridge, IN 66/IL 14, New Harmony, 07001030

Iowa

Clinton County

City Hotel, 214 S. Main St., Wheatland, 07001031

Maryland

Baltimore Independent City

Hendler Creamery, 1100 E. Baltimore St. & 1107 E. Fayette St., Baltimore, 07001032

Ruscombe, 4901 Springarden Dr., Baltimore, 07001033

Upper Fells Point Historic District, Roughly bounded by E. Baltimore St.; S. Chapel St.; E. Pratt St.; S. Patterson Park Ave.; S. Chester, Gough & S. Bethel Sts., Baltimore, 07001034

New York

Dutchess County

Parker Training Academy Dutch Barn, 527 Turkey Hill Rd., Red Hook, 07001035

Rensselaer County

Irwin, W.P., Bank Building, 156 Broadway, Rensselaer, 07001036

St. Lawrence County

Crossover Island Light Station, (U.S. Coast Guard Lighthouses and Light Stations on the Great Lakes TR) Crossover Island, St. Lawrence, 07001037

Suffolk County

Crest, The, 563 Asharoken Ave., Asharoken, 07001040

Sullivan County

Beaverkill Covered Bridge, CR 30 over Beaverkill Cr., Beaverkill, 07001038

Ulster County

Cordts Mansion, 82–152 Lindsley Ave., Kingston, 07001039

Westchester County

Bronxville Womens' Club, 135 Midland Ave., Bronxville, 07001041

Wyoming County

Brick Presbyterian Church, 6 Church St., Perry, 07001042

South Carolina

Charleston County

Seashore Farmers' Lodge No. 767, NE. corner Jct. of Sol Legare & Old Sol Legare Rds., James Island, 07001043

Marlboro County

Appin (Boundary Increase), US 15/401 W, approx. 1 mi. SW. of Bennettsville, Bennettsville, 07001044

Newberry County

Hope Rosenwald School, 1971 Hope Station Rd., Pomaria, 07001045

Tennessee

Meigs County

Blythe Ferry (Boundary Increase), (Meigs County, Tennessee MRA) TN 60 at Tennessee R., Birchwood, 07001046

Wisconsin

Eau Claire County

Confluence Commercial Historic District, 2–28 S. Barstow; 206–316 Eau Claire & 8 S. Farwell Sts., Eau Claire, 07001047

Kewaunee County

Daniel Lyons (Shipwreck), (Great Lakes Shipwreck Sites of Wisconsin MPS) E. of Stoney Cr. outlet, 4 mi. offshore, Lake Michigan, 07001048

[FR Doc. E7–17723 Filed 9–7–07; 8:45 am]

BILLING CODE 4312–51–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Availability of a Plan of Operations and Environmental Assessment (EA), Big South Fork National River and Recreation Area, TN.

AGENCY: National Park Service, Interior.

ACTION: Notice of Availability of a Plan of Operations and Environmental Assessment (EA), Big South Fork National River and Recreation Area, Tennessee.

SUMMARY: Notice is hereby given in accordance with Section 9.52(b) of Title 36 of the Code of Federal Regulations, Part 9, Subpart B, of a Plan of Operations submitted by St. Joseph Petroleum, Inc., for continued production of six gas wells inside the boundary of Big South Fork National River and Recreation Area, Fentress County, Tennessee. Additionally, the NPS has prepared an EA for this proposal.

DATES: The above documents are available for pubic review and comment thirty days from the publication of this notice in the **Federal Register**.

ADDRESSES: The Plan of Operations and EA are available for public review and

comment in the Office of the Superintendent, Reed E. Detring, Big South Fork National River and Recreation Area; 4564 Leatherwood Road; Oneida, TN 37841. The documents are also available at the Planning, Environment and Public Comment (PEPC) Web site at: *http://parkplanning.nps.gov/BISO.*

FOR FURTHER INFORMATION CONTACT: Ms. Phyllis Trabold, Community Planner, Big South Fork National River and Recreation Area; 4564 Leatherwood Road; Oneida, TN 37841, telephone: 423–569–2404 extension 231.

SUPPLEMENTARY INFORMATION: If you wish to comment on the EA, you may mail comments to the name and address above or post comments online at *http://parkplanning.nps.gov/BISO.* This EA will be on public review for 30 days. 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.

Dated: August 28, 2007.

Art Frederick,

Acting Regional Director, Southeast Region.

[FR Doc. E7–17768 Filed 9–7–07; 8:45 am]

BILLING CODE 4310–JD–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Committee on Court Administration and Case Management; Notice of Request for Public Comment

AGENCY: Judicial Conference of the United States, Committee on Court Administration and Case Management.

ACTION: Notice of request for public comment.

SUMMARY: The Court Administration and Case Management Committee of the Judicial Conference of the United States is seeking comment on the attached document relating to the privacy and security implications of public Internet access to plea agreements filed in federal court cases.

DATES: Comments will be accepted from September 10, 2007 through October 26, 2007.

ADDRESSES: All comments should be received by 5 p.m. Eastern Daylight Time, October 26, 2007. The electronic submission of comments is highlly encouraged. Electronic comments may be submitted via e-mail to *privacycomments@ao.uscourts.gov.* Comments may also be submitted by regular mail to The Administrative Office of the United States Courts, Court Administration Policy Staff, Attn: Privacy Comments, Suite 4–560, One Columbus Circle, NE., Washington, DC 20544.

FOR FURTHER INFORMATION CONTACT: Abel J. Mattos, Chief, Court Administration Policy Staff, Administrative Office of the United States Courts, One Columbus Circle, NE., Washington, DC 20544, telephone (202) 502–1560, fax (202) 502–1022.

Dated: September 5, 2007.

Abel J. Mattos,

Chief, Court Administration Policy Staff.

Request for Comment on Privacy and Security Implications of Public Access to Certain Electronic Criminal Case File Documents

The federal Judiciary is seeking comment on the privacy and security implications related to electronic public access to certain documents in criminal case files. The Court Administration and Case Management Committee of the Judicial Conference of the United States is studying these issues in order to develop policy guidance to the federal courts.

Specifically, the Committee is interested in comments on a proposal to restrict public Internet access to plea agreements in criminal cases, which may contain information identifying defendants who are cooperating with law enforcement investigations.

- This request for public comment addresses two related issues:
- The privacy and security implications of public Internet access to plea agreements filed in federl court cases; and
- Potential policy alternatives.

Information on how to submit comments is contained at the end of this document.

Electronic Public Access to Federal Court Case Files

Historically, most documents filed in federal courts are considered to be public information. Over the last decade, the federal courts have established an electronic case files system that allows public access to court case files through the Internet. This transition from paper case files to electronic files has transformed the way that case file documents are used by attorneys, litigants, courts, and the public. In the past, attorneys and parties were required to file case documents at the courthouse. Likewise, the public was required to go to the courthouse where a paper case file was maintained to review the file or obtain a copy of a document from that court file. Now, electronic case files allow anyone with an account with the Judiciary's Public access to Court Electronic Records (PACER) system to view, print, or download these documents via the Internet.

PACER is a Web-based system that provides access to both the dockets (a list of all the documents in the case) and actual case file documents. Individuals who seek a particular document or case file can open a PACER account and obtain a login and password. Those who register a valid credit card number will receive their account login and password in minutes. Immediately after establishing an account, and individual can access case files over the Internet. As established by Congress, public access through PACER involves a fee. Currently, the fee is $.08 per page of a case file document or report that is viewed, downloaded, or printed. There is a fee cap of $2.40 for all documents (excluding transcripts of court proceedings) that exceed 30 pages in length. Additionally, no fee is owed by a PACER account holder until charges of $10 are accrued in a calaendar year. Electronic case files are also available for review, free of charge, at public computer terminals at courthouses. Printouts from the public access terminals cost $.10 per page.

Privacy and Security Implications of Electronic Criminal Case Files

Electronic case files bring significant benefits to the courts, litigants, attorneys, and the public. There are also, however, personal privacy and security implications of unlimited Internet access to court case files, especially criminal case files. Many federal court case files contain personal and sensitive information that litigants and third parties may be compelled by law to disclose for adjudicatory purposes.

The Judiciary has a long tradition—rooted in both constitutional and common law principles—of open access to public court records. Accordingly, all case file documents, unless sealed or otherwise subject to restricted access by statute or federal rule, have traditionally been available for public inspection and copying. The Supreme Court has recognized, however, that access rights are not absolute, and that technology may affect the balance between access rights and privacy and security interests. *See Nixon* v. *Warner Communications, Inc.,* 435 U.S. 589

(1978) and *United States Department of Justice* v. *Reporters Committee for Freedom of the Press,* 489 U.S. 749 (1989).

In September 2003, the Judicial Conference adopted a privacy policy for criminal case files that included providing the same level of public access to electronic case files as it has provided to paper case files. It did so, in part, based on the results of a pilot project completed earlier that year. The pilot project allowed public Internet access to criminal case files in ten district courts and one court of appeals for two years. A report on the pilot project by the Federal Judicial Center found that there were no significant reports of misuse of criminal case documents, nor were there any reports of harm stemming from the availability of these documents via public Internet access. Nonetheless, individual courts may have chosen a more restrictive approach to public Internet access to these documents.

Both the 2003 policy and pending Federal Rules of Procedure regarding privacy in court filings prescribed by the Supreme Court in April 2007 [1] require that certain limited information be redacted or truncated in filings with the court, including: Social Security and financial account numbers, dates of birth, names of minor children, and, in criminal cases, home addresses. In addition, the pending Federal Rules allow courts to seal documents or limit public Internet access to documents on a case-by-case basis, if good cause is shown. *See* Pending FR Crim. P. 49.1(e).

Request To Limit Access to Certain Documents in Federal Court Criminal Case Files

The Department of Justice has asked the Judicial Conference to restrict public Internet access to a specific type of document: Plea agreements in criminal cases, which may disclose the fact that the defendant in the case is cooperating or has cooperated with law enforcement investigations. The ease with which the public is able to both retrieve federal court case information from electronic case files and redistribute it electronically through the Internet has raised concerns about whether the Judiciary's policy of allowing access to all unsealed plea agreements provides a sufficient measure of safety for those defendants cooperating with law enforcement. Certain private parties or organizations have compiled lists setting forth names, locations, and descriptions of alleged cooperating witnesses and have posted them on the Internet. Some have expressed concern that wide dissemination of this information may facilitate or encourage retaliation and/or witness intimidation.

The Judiciary is requesting comment on its policy of providing public Internet access to all non-sealed plea agreements in electronic criminal case files (described further below). This policy has been in effect since November 2004, but only came into play in any particular local court level when that court adopted an electronic case files system, typically at some point between 2005–2007. To assist it in considering the issue, the Judiciary welcomes comments on this policy, including, but not limited to, the question of whether the policy should be changed to prohibit public Internet access to plea agreements or other documents in the criminal case files that identify a person cooperating with law enforcement. These plea agreements and documents would still be available for public inspection at the courthouse. Additionally, the Judiciary seeks comments on how it could otherwise meet the need to balance access issues against competing concerns such as privacy and personal security.

How To Submit Comments

All comments should be received by October 26, 2007 and must include the name, organization (if any), mailing address, and telephone number of the commentator. All comments should also include an e-mail address and a fax number, where available, as well as an indication of whether the commentator is interested in participating in a public hearing, if one is held. The public should be advised that it may not be possible to honor all requests to speak at any such hearing. Any such hearing may be recorded for broadcast.

The electronic submission of comments is highly encouraged. Electronic comments may be submitted by e-mail to *privacycomments@ao.uscourts.gov.* Comments may be submitted through the U.S. Postal Service to The Administrative Office of the United States Courts, Court Administration Policy Staff, Attn: Privacy Comments, Suite 4–560, One Columbus Circle, NE., Washington, DC 20544.

[FR Doc. 07–4415 Filed 9–7–07; 8:45 am]

BILLING CODE 2210–55–M

[1] Absent action by Congress to reject, modify, or defer them, the rules will go into effect on December 1, 2007.

DEPARTMENT OF JUSTICE

[OMB Number 1124–0001]

National Security Division; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Correction to OMB Number 1124–0003, 30-Day Notice of Information Collection Under Review: Registration Statement (Foreign Agents).

The Department of Justice (DOJ), National Security Division (NSD), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 128, pages 36721–36722 on July 5, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 10, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension of currently approved collection.

(2) Title of the Form/Collection: Registration Statement (Foreign Agents).

(3) The agency form number and the applicable component of the Department of Justice sponsoring the collection: Form Number: NSD–1. National Security Division, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit, Not-for- institutions, and individuals or households. The form contains registration statement and information used for registering foreign agents under the provisions of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611, *et seq.*

(5) An estimate of the total number of respondents and the amount of time estimated for an average response: The estimated total number of respondents is 67 respondents at 1.375 hours (1 hour and 22 minutes) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: The estimated total public burden associated with this information collection is 92 hours annually.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 4, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–17724 Filed 9–7–07; 8:45 am]

BILLING CODE 4410–PF–P

DEPARTMENT OF JUSTICE

[OMB Number 1124–0002]

National Security Division; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: Correction to OMB Number 1124–0004 30-Day Notice of Information Collection Under Review: Supplemental Statement (Foreign Agents).

The Department of Justice (DOJ), National Security Division (NSD), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 128, page 36722 on month July 5, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 10, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension of currently approved collection.

(2) Title of the Form/Collection: Supplemental Statement (Foreign Agents)

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: NSD–2. National Security Division, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit, Not-for-profit institutions, and individuals or households. The form is required by the provisions of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611, *et seq.*, must be filed by the foreign agent within thirty days after the expiration of each period of six months succeeding the original filing date, and must contain accurate and complete information with respect to the foreign agent's activities, receipts and expenditures.

(5) An estimate of the total number of respondents and the amount of time estimated for an average response: The estimated total number ofrespondents is 491, who will complete a response within 1.375 hours (1 hour and 22 minutes) 2 responses annually.

(6) An estimate of the total burden (in hours) associated with the collection: The estimated total public burden associated with this information collection is 1,350 hours annually.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 4, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–17739 Filed 9–7–07; 8:45 am]

BILLING CODE 4410–PF–P

DEPARTMENT OF JUSTICE

[OMB Number 1124–0003]

National Security Division; Agency Information Collection Activities; Proposed Collection; Comments Requested

ACTION: Correction to OMB Number 1124–0006, 30-Day Notice of Information Collection Under Review:

Amendment to Registration Statement (Foreign Agents).

The Department of Justice (DOJ), National Security Division (NSD), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 128, pages 36722–36723 on July 5, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment October 10, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Amendment to Registration Statement (Foreign Agents).

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: NSD–5. National Security Division, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit, Not-for-profit institutions, and individuals or households. Abstract: The form is used in registration of foreign agents when changes are required under provisions of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611, *et seq.*

(5) An estimate of the total number of respondents and the amount of time estimated for an average response: The estimated total number of respondents is 175, who will complete a response within 1½ hours.

(6) An estimate of the total burden (in hours) associated with the collection: The estimated total public burden associated with this information collection is 262 hours annually. If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 4, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–17740 Filed 9–7–07; 8:45 am]

BILLING CODE 4410–PF–P

DEPARTMENT OF JUSTICE

[OMB Number 1124–0004]

National Security Division; Agency Information Collection Activities; Proposed Collection; Comments Requested

ACTION: Correction to OMB Number 1124–0007 30-Day Notice of Information Collection Under Review: Exhibit B to Registration Statement (Foreign Agents).

The Department of Justice (DOJ), National Security Division (NSD) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 128, pages 36723 on July 5, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 10, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension of currently approved collection.

(2) Title of the Form/Collection: Exhibit B to Registration Statement (Foreign Agents).

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the

collection: Form Number: NSD–4. National Security Division, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit, Not-for-profit institutions, and individuals or households. The form is used to augment the registration statement of foreign agents as required by the provisions of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611, *et seq.*, must set forth the agreement or understanding between the registrant and each of his foreign principals as well as the nature and method of performance of such agreement or understanding and the existing or proposed activities engaged in or to be engaged in, including political activities, by the registrant for the foreign principal, and must be filed within 10 days of the date a contract is made or when initial activity occurs, whichever is first.

(5) An estimate of the total number of respondents and the amount of time estimated for an average response: The total estimated number of responses is 164 at approximately .33 hours (20 minutes) per response.

(6) An estimate of the total burden (in hours) associated with the collection: There are an estimated 54 total annual burden hours associated with this collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 4, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–17741 Filed 9–7–07; 8:45 am]

BILLING CODE 4410–PF–P

DEPARTMENT OF JUSTICE

[OMB Number 1124–0005]

National Security Division; Agency Information Collection Activities; Proposed Collection; Comments Requested

ACTION: Correction to OMB Number 1124–0008 30-Day Notice of Information Collection Under Review: Short-Form Registration Statement (Foreign Agents).

The Department of Justice (DOJ), National Security Division (NSD) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal Register** Volume 72, Number 128, pages 36723–36724 on July 5, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until October 10, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–5806.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the 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 submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension of currently approved collection.

(2) Title of the Form/Collection: Short-Form Registration Statement (Foreign Agents).

(3) Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number: NSD–6. National Security Division, U.S. Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Business or other for-profit, Not-for-profit institutions, and individuals or households. Abstract: The form is used to register foreign agents as required under the provisions of the Foreign Agents Registration Act of 1938, as amended, 22 U.S.C. 611, *et seq.* Rule 202 of the Act requires that a partner, officer, director, associate, employee and agent of a registrant who engages directly in activity in furtherance of the interests of the foreign principal, in other than a clerical, secretarial, or in a related or similar capacity, file a short-form registration statement.

(5) An estimate of the total number of respondents and the amount of time estimated for an average response: The estimated total number of respondents is 523 who will complete a response within .429 hours (25 minutes).

(6) An estimate of the total burden (in hours) associated with the collection: The estimated total public burden associated with this information collection is 224 hours annually. If additional information is required contact: Lynn Bryant, Department Clearance Officer, United States Department of Justice, Policy and Planning Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street, NW., Washington, DC 20530.

Dated: September 4, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–17742 Filed 9–7–07; 8:45 am]

BILLING CODE 4410–PF–P

DEPARTMENT OF JUSTICE

[AAG/A Order No. 030–2007]

Privacy Act of 1974; System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Department of Justice (DOJ), Justice Management Division (JMD), proposes to modify, in part, a system of records entitled ''Department of Justice Payroll System, Justice/JMD–003,'' last published in full text on January 2, 2004, at 69 FR 107–109 and amended on January 25, 2007, at 72 FR 3410. The Department is making administrative changes, including the addition of the Federal Bureau of Investigation (FBI) to

the payroll system, and updating the applicable routine uses.

In accordance with 5 U.S.C. 552a(e)(4) and (11) the public is given a 30-day period in which to comment; and the Office of Management and Budget (OMB), which has oversight responsibility under the Privacy Act, requires a 40-day period in which to conclude its review of the system. Therefore, please submit any comments by October 22, 2007. The public, OMB and the Congress are invited to submit any comments to Joo Chung, Counsel, Privacy and Civil Liberties Office, Office of the Deputy Attorney General, 950 Pennsylvania Ave., NW., Washington, DC 20530, facsimile number 202–616–9627.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and the Congress.

Dated: September 4, 2007.

Lee J. Lofthus,

Assistant Attorney General for Administration.

JUSTICE/JMD–003

SYSTEM NAME:

Department of Justice Payroll System, Justice/JMD–003.

* * * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former DOJ employees.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

[CHANGE THE SECOND INTRODUCTORY PARAGRAPH TO READ AS FOLLOWS.]

In accordance with an interagency agreement, as provided for in Office of Management and Budget (OMB) implementing guidelines (40 FR 28948), the DOJ may disclose records to the U.S. Department of Agriculture (USDA), National Finance Center (NFC), in order to effect all financial transactions on behalf of the DOJ related to employee pay.

* * * * *

[CORRECT ROUTINE USE C, TO READ AS FOLLOWS.]

C. To State and local courts of competent jurisdiction for the enforcement of child support, alimony, or both, pursuant to 42 U.S.C. 659.

* * * * *

[DELETE ROUTINE USE G AND SUBSTITUTE THE FOLLOWING ROUTINE USE.]

G. To appropriate agencies, entities, and persons when (1) The Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize or remedy such harm.

* * * * *

[DELETE THE GENERAL SERVICES ADMINISTRATION FROM ROUTINE USE O, TO READ AS FOLLOWS.]

O. To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

* * * * *

[FR Doc. E7–17754 Filed 9–7–07; 8:45 am]

BILLING CODE 4410–CP–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under 21 U.S.C. 952(a)(2) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Title 21 Code of Federal Regulations (CFR), 1301.34(a), this is notice that on July 19, 2007, CIMA Labs, Inc., 7325 Aspen Lane, Brooklyn Park, Minnesota 55428, made application by letter to the Drug Enforcement Administration (DEA) to be registered as an importer of Nabilone (7379), a basic class of controlled substance listed in schedule II.

The company plans to import the basic class of controlled substance for clinical trials and research.

Any bulk manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic class of controlled substance may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such comments or objections being sent via regular mail should be addressed, in quintuplicate, to the Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), Washington, DC 20537, or any being sent via express mail should be sent to Drug Enforcement Administration, Office of Diversion Control, Federal Register Representative (ODL), 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than October 10, 2007.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance listed in schedule I or II are, and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: August 28, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–17766 Filed 9–7–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Notice of Registration

By Notice dated May 10, 2007, and published in the **Federal Register** on May 18, 2007, (72 FR 28073), Cody Laboratories, Inc., 601 Yellowstone Avenue, Cody, Wyoming 82414, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as a bulk manufacturer of the basic classes of controlled substances listed in schedule I and II:

Drug	Schedule
Dihydromorphine (9145)	I
Amphetamine (1100)	II

Drug	Schedule
Methamphetamine (1105)	II
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Cocaine (9041)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Diphenoxylate (9170)	II
Meperidine (9230)	II
Oxymorphone (9652)	II
Sufentanil (9740)	II
Fentanyl (9801)	II

The company plans on manufacturing the listed controlled substances in bulk for sale to its customers.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and determined that the registration of Cody Laboratories, Inc. to manufacture the listed basic class of controlled substance is consistent with the public interest at this time. DEA has investigated Cody Laboratories, Inc. to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 823, and in accordance with 21 CFR 1301.33, the above named company is granted registration as a bulk manufacturer of the basic classes of controlled substances listed.

Dated: August 28, 2007.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E7–17767 Filed 9–7–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Randi M. Germaine, M.D.; Revocation of Registration

On December 14, 2006, the Deputy Assistant Administrator, Office of Diversion Control, issued an Order to Show Cause to Randi M. Germaine, M.D. (Respondent), of Casa Grande, Arizona. The Show Cause Order proposed the revocation of Respondent's DEA Certificate of Registration, BG3717278, as a practitioner, as well as the denial of any pending applications for renewal or modification of the registration, on the ground that his continued registration is inconsistent with the public interest. Show Cause Order at 1.

The Show Cause Order specifically alleged that during the execution of a search warrant at the Morenci Healthcare Center (Respondent's former employer), copies of patient charts were obtained which were then sent to a medical expert for review. *Id.* at 2. The Show Cause Order alleged that the expert had concluded that Respondent's ''prescribing practices concerning controlled substances did not meet the usual standard of care.'' *Id.* Relatedly, the Show Cause Order alleged that background checks on some of Respondent's patients indicated that they ''were receiving excessive and unnecessary amounts of controlled substances,'' that they were known to law enforcement to be ''drug abusers,'' and that some of them had committed controlled-substance offenses. *Id.* Relatedly, the Show Cause Order alleged that some of Respondent's patients ''were known to area pharmacists as 'doctor shoppers' and 'chronic early refillers.' '' *Id.* Moreover, ''a number of [Respondent's] patients were family members receiving the same prescriptions for controlled substances.'' *Id.*

The Show Cause Order further alleged that the ''autopsy reports for two of [Respondent's] patients * * * showed [that] the cause of death [was] drug overdoses resulting from controlled substances prescribed by'' Respondent. *Id.* The Show Cause Order also alleged that another of Respondent's patients had ''died after obtaining invalid prescriptions from [him] for controlled substances.'' *Id.*

On January 8, 2007, the Show Cause Order, which also notified Respondent of his right to a hearing, was served on him as evidenced by the signed return-receipt card. Because (1) More than thirty days have passed since service of the Show Cause Order, and (2) Respondent did not timely request a hearing, I conclude that Respondent has waived his right to a hearing. *See* 21 CFR 1309.53(c). I therefore enter this Final Order without a hearing based on relevant material found in the investigative file and make the following findings.

Findings

Respondent is the holder of DEA Certificate of Registration, BG3717278, which authorizes him to handle controlled substances as a practitioner at the registered location of Harvest Medical Clinic, Inc., 1856 E. Florence Blvd., Casa Grande, Arizona. Respondent's registration does not expire until September 30, 2008.

On August 25, 2003, the Greenlee County Sheriff's Office contacted the DEA Tucson Diversion Group regarding Respondent's termination from the Morenci Healthcare Center based on the allegation that he over-prescribed narcotic controlled substances. The Sheriff's Office also informed DEA Investigators that R.S., a thirty-one year old male inmate at the county jail and patient of Respondent, had died and that the autopsy report had found both methadone and benzodiazepines in his blood. While the autopsy report noted that the cause of death could not be determined and that the ''[t]oxicology findings may be equivocal due to decomposition,'' R.S. was known to local law enforcement as a drug abuser. The Sheriff's Office further related that Respondent had prescribed methadone (10 mg. tablets) for R.S. for back pain.

Subsequently, R.S.'s medical records were sent to Ted Parran, M.D., a board-certified internist and Associate Clinical Professor of Medicine and Family Medicine at the Case Western Reserve University School of Medicine and Director of its Addiction Fellowship Programs.[1] According to Dr. Parran's report (hereinafter, Expert Report), R.S. died four days after Respondent started him on methadone and ''had demonstrated much drug seeking behavior over the past two years.'' Expert Report at 2. Dr. Parran noted that R.S. ''had [a]n MRI scanning demonstrating little pathology, had longstanding complaints and office behavior out of proportion to evidence of illness, and [a history] of non-compliance with [physical therapy] referrals.'' *Id.* Dr. Parran further noted that R.S. ''had been pretty much off of opioid analgesics (except for a few Vicodin or Percocet) and in [j]ail for a while when for some reason he was started on [m]ethadone * * * on 5/30/02.'' *Id.* Dr. Parran concluded that ''[t]his prescribing is difficult to imagine, fails to meet usual standards of care and concern when prescribing controlled drugs, appears to be for other than [a] legitimate medical purpose, and appears to have played a direct role in the patient's death.'' *Id.*

On or about May 31, 2003, D.K., a twenty-five year old female and another of Respondent's patients, died of a drug overdose. According to the toxicology report, hydrocodone, oxycodone, diazepam, and nordiazepam were present in D.K.'s blood. Furthermore, the examining pathologist found that

[1] Dr. Parran has also performed research and issued written educational materials on addiction and controlled-substance prescribing. He has also developed a remedial education course on controlled-substance prescribing.

D.K.'s death ''is due to an acute intoxication due to the combined effects of multiple prescription medications including hydrocodone and oxycodone.''

Upon review of D.K.'s chart, Dr. Parran found ''much evidence of out of control behavior.'' Expert Report at 5. More specifically, Dr. Parran noted that D.K. had lied about her ''drug use''; that there was ''[c]lear evidence'' that on three occasions D.K. was ''Dr. shopping'' and that on four other occasions she engaged in ''scams'' to obtain additional drugs; that her medical complaints bore ''no resemblance to the physical exam''; that there were ''multiple multiple early refill attempts''; and that approximately five months before her death, another physician had diagnosed her with bipolar disorder and determined that she ''need[ed] to be tapered off of all controlled drugs.'' *Id.* at 5–6.

Dr. Parran also noted another visit in which Respondent had noted that D.K. was ''worried about Hep[atitis] C and HIV * * * needle stick exposure—sharing needles,'' and that she needed a urine drug screen. *Id.* at 5. Dr. Parran observed that Respondent nonetheless issued D.K. a prescription for Vicodin for ''acute pain and cough.'' *Id.*

Dr. Parran also found that D.K. had not been prescribed controlled substances between January and May 9, 2003, the latter being the date when Respondent ''began the prescribing that ultimately contributed to [D.K.'s] death.'' *Id.* at 6. Dr. Parran noted that Respondent issued prescriptions to D.K. on May 9, 2003 for 90 hydrocodone; on May 20, 2003, for another 90 hydrocodone; and on May 27, 2003, for 40 Percocet (oxycodone).[2] *Id.* On May 28, 2003, D.K. overdosed and died three days later. *Id.* Based on his review, Dr. Parran concluded that Respondent's prescribing of controlled substances ''fails to meet usual standards of care, appears to be for other than legitimate medical purpose and appears to have contributed directly to the patient's death.'' *Id.*

On July 31, 2003, S.B., a fifty-six year old female patient of Respondent, also died of a drug overdose. The toxicology report noted that propoxyphene, norproxyphene, and nordiazaepam were present in her blood; the pathologist concluded that S.B.'s death was ''due to an acute multidrug intoxication including * * * Propoxyphene.''

DEA investigators subsequently determined that between August 5, 2002, and July 21, 2003, Respondent prescribed for S.B. numerous controlled substances. More specifically, he prescribed 5520 propoxyphene capsules, 1200 hydrocodone (7.5/500 mg.) tablets, 729 Oxycontin tablets in various strengths, 21 flurazepam (both 15 mg. and 30 mg. strength) tablets, 150 lorazepam (1 mg.) tablets, 90 oxycodone (5 mg.) tablets, and 10 Duragesic (75 mcg.) patches.

Dr. Parran's review noted that S.B. ''was a longstanding patient of the Health Center, with many medical problems including arthritis and headaches, and with a warning note on the front of the chart * * * to 'avoid all narcotics.' '' Expert Report at 3. Dr. Parran further found that ''from the first time [Respondent] saw this patient [he] began adding controlled drugs'' including Vicodin, Darvocet, Fiorinal, Tussionex, Oxycontin, Darvon, Ativan (lorazepam), and flurazepam. *Id.*

Dr. Parran further noted that Respondent had engaged in ''an additional flurry of prescribing'' during the period of March and April 2003. *Id.* Specifically, he noted that Respondent prescribed Oxycontin (40 mg.) on March 20th, Darvocet on April 1st, Vicodin on April 11th, multiple strengths of Oxycontin on April 14th, Vicodin and Oxycontin again on April 21st, and both flurazepam with two refills and a Duragesic (fentanyl) patch on April 28th. *Id.* Dr. Parran further found that ''in a six month period [Respondent] prescribed 3700 tablets of opioids and additional benzodiazepines and barbiturates.'' *Id.* Dr. Parran concluded that ''[t]his escalating prescribing of controlled drugs to a drug seeking patient who was clearly out of control with her use fails to meet usual standards of care, appears to be for other than [a] legitimate medical purpose and appears to have contributed to the patient's death.''[3] *Id.*

Dr. Parran also reviewed Respondent's prescribing with respect to a fourth patient, N.G. Between October 31, 2002, and April 10, 2003, Respondent prescribed for N.G., 1418 methadone (10 mg.) tablets, 605 oxycodone (5 mg.) tablets, and 120 hydrocodone (7.5/750 mg.) tablets.

According to Dr. Parran, this ''patient demonstrated Dr. shopping behavior over a long period of time.'' Expert Report at 4. Moreover, based on a December 12, 2002 toxicology screening, another physician at the clinic had indicated that N.G. had violated her controlled-substance contract. *Id.* Respondent nonetheless continued to prescribe controlled substances to her. *Id.*

Dr. Parran further noted that N.G.'s chart indicated that she had engaged in several scams to obtain additional controlled substances including going to the emergency room, and claiming either that she had run out early or that her drugs had been stolen. *Id.* Moreover, notwithstanding that her chart included: (1) A pharmacy use printout showing that N.G. was engaged in the ''tremendous over-use of controlled drugs,'' (2) ''an extensive note'' from another physician ''indicating that she should get no more controlled drugs from the practice,'' and (3) a March 2003 note from another clinic (that N.G. had been referred to) which diagnosed her as a drug abuser and recommended that she be ''wean[ed] off of narcotics,'' Respondent continued to prescribe controlled substances to her. *Id.* Indeed, three days after N.G. had again gone to the emergency room trying to get early medications, Respondent again prescribed controlled substances to her.[4] *Id.* According to Dr. Parran, ''[t]his continued prescribing of controlled drugs to a patient who was non-compliant with the treatment plan and clearly out of control with her use fails to meet usual standards of care and appears to be for other than [a] legitimate medical purpose.'' *Id.*

According to Dr. Parran, another of Respondent's patients (D.J.), had ''demonstrated multiple behaviors that alerted the practice to her problems with controlled drugs including early calls, early visits, claiming [she was going] 'out of town' for early scripts'' but ''then keeping the original appointments.'' *Id.* at 7. Moreover, notwithstanding that: (1) D.J. had broken her controlled substance contract; (2) that another physician had recently indicated that D.J. should no longer be prescribed controlled substances; and (3) that Respondent had himself indicated that D.J.'s toxicology test results were abnormal, that she was engaged in doctor shopping, and that

[2] According to the investigative file, D.K.'s chart contained a notation indicating that only her OB/GYN, who was treating her for pain related to a minor surgical procedure, could prescribe controlled substances to her. D.K.'s OB/GYN further told investigators that there was no medical reason why D.K. should have been prescribed controlled substances after April 30, 2003.

[3] Following the death of S.B., Respondent's former employer reported Respondent to the Arizona Medical Board. The Board subsequently concluded that Respondent had committed unprofessional conduct under Ariz. Rev. Stat. § 32–1401(27)(q). The Board ordered that Respondent be issued a letter of reprimand for excessive prescribing and be placed on probation. The Board's decision focused entirely on Respondent's treatment of S.B. and did not discuss his prescribing practices with respect to any other patient. *See In re Randi M. Germaine, M.D.* (Ariz. Med. Bd. Aug. 12, 2005) (Case # MD–03–0897A).

[4] Eventually another physician terminated N.G. from the clinic's practice.

controlled drugs should be discontinued; two months later, Respondent gave D.J. a prescription for Vicodin. *Id.* at 7–8. Respondent then proceeded to issue D.J. numerous other prescriptions including several early prescriptions and one based on her representation that she was going out of town. *Id.* at 8. According to Dr. Parran, Respondent's ''continued prescribing of controlled drugs to a patient who was non-compliant and clearly out of control with her use fails to meet usual standards of care and appears to be for other than [a] legitimate medical purpose.''' *Id.*

Discussion

Section 304(a) of the Controlled Substances Act provides that a registration to ''dispense a controlled substance * * * may be suspended or revoked by the Attorney General upon a finding that the registrant * * * has committed such acts as would render his registration under section 823 of this title inconsistent with the public interest as determined under such section.'' 21 U.S.C. 824(a)(4). With respect to a practitioner, the Act requires the consideration of the following factors in making the public interest determination:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing * * * controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

Id.

''[T]hese factors are * * * considered in the disjunctive.'' *Robert A. Leslie, M.D.,* 68 FR 15227, 15230 (2003). I ''may rely on any one or a combination of factors, and may give each factor the weight [I] deem[] appropriate in determining whether a registration should be revoked.'' *Id.* Moreover, case law establishes that I am ''not required to make findings as to all of the factors.'' *Hoxie* v. *DEA,* 419 F.3d 477, 482 (6th Cir. 2005); *see also Morall* v. *DEA,* 412 F.3d 165, 173–74 (D.C. Cir. 2005).

In this matter, I acknowledge that the Arizona Medical Board has not revoked Respondent's state license. The Board's inquiry was, however, limited to Respondent's prescribing to a single patient. Therefore, I decline to defer to the Board's decision and conclude that Respondent's experience in dispensing controlled substances and his record of non-compliance with Federal law and regulations demonstrate that his continued registration is ''inconsistent with the public interest.'' 21 U.S.C. 823(f).

Factors Two and Four—Respondent's Experience in Dispensing Controlled Substances and Record of Compliance With Applicable Laws Relating to Controlled Substances

Under DEA regulations, a prescription for a controlled substance is not ''effective'' unless it is ''issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice.'' 21 CFR 1306.04(a). This regulation further provides that ''an order purporting to be a prescription issued not in the usual course of professional treatment * * * is not a prescription within the meaning and intent of [21 U.S.C. 829] and * * * the person issuing it, shall be subject to the penalties provided for violations of the provisions of law related to controlled substances.'' *Id.* As the Supreme Court recently explained, ''the prescription requirement * * * ensures patients use controlled substances under the supervision of a doctor so as to prevent addiction and recreational abuse. As a corollary, [it] also bars doctors from peddling to patients who crave the drugs for those prohibited uses.'' *Gonzales* v. *Oregon,* 126 S.Ct. 904, 925 (2006) (citing *Moore,* 423 U.S. 122, 135 (1975)).

As found above, Dr. Parran, an expert on the prescribing of controlled substances, reviewed the medical records of patients treated by Respondent including several who had overdosed on controlled substances. Dr. Parran specifically noted that Respondent prescribed controlled substances to patients notwithstanding that they were engaged in drug-seeking behaviors including doctor shopping and various scams used to obtain additional prescriptions.

Moreover, Dr. Parran found in multiple instances that Respondent's prescriptions were not issued for a legitimate medical purpose. With respect to R.S., Dr. Parran found that Respondent's ''prescribing is difficult to imagine, * * * appears to be for other than [a] legitimate medical purpose, and appears to have played a direct role in the patient's death.'' Expert Report at 2.

In regards to D.K., Dr. Parran noted that she too was engaged in doctor shopping and other scams such as early refill attempts and medical complaints that were not confirmed by a physical exam. Moreover, her chart included a notation that only her OB/GYN could prescribe controlled substances for her; her OB/GYN told investigators that after April 30, 2003, there was no medical reason why she should have been prescribed controlled substances. Nonetheless, on May 9 and 20, 2003, Respondent prescribed for D.K. drugs containing hydrocodone, and on May 27, 2003, Respondent prescribed Percocet (oxycodone). D.K. overdosed the next day. Based on his review, Dr. Parran concluded that Respondent's prescribing of controlled substances for D.K. ''appears to be for other than [a] legitimate medical purpose and appears to have contributed directly to [her] death.'' *Id.* at 6.

S.B. was another patient of Respondent who died of an overdose. With respect to her, Dr. Parran found that notwithstanding that her chart included a warning note to ''avoid all narcotics,'' Respondent prescribed controlled drugs including various opiates including Vicodin, Darvocet, Tussionex, Oxycontin, and Darvon. In addition, Respondent prescribed other controlled substances including benzodiazepines and barbiturates. Dr. Parran further found that in a six month period, Respondent prescribed 3,700 tablets of opioids (as well as drugs in other categories of controlled substances). Dr. Parran concluded that ''[t]his escalating prescribing of controlled drugs to a drug seeking patient who was clearly out of control with her use * * * appears to be for other than [a] legitimate medical purpose and appears to have contributed to the patient's death.'' *Id.* at 3.

In sum, Dr. Parran's findings provide ample support for the conclusion that Respondent was not issuing prescriptions for ''a legitimate medical purpose,'' 21 CFR 1306.04(a), but rather, was ''peddling to patients who crave the drugs for * * * prohibited uses.'' *Gonzales* v. *Oregon,* 126 S.Ct. 904, 925 (2006) (citing *Moore,* 423 U.S. 122, 135 (1975)). Accordingly, I find that Respondent's experience in dispensing controlled substances is characterized by repeated violations of the CSA. I therefore conclude that Respondent's continued registration is ''inconsistent with the public interest.'' 21 U.S.C. 823(f). Moreover, I further find that the public safety requires that this Order be effective immediately. 21 CFR 1316.67.

Order

Pursuant to the authority vested in me by 21 U.S.C. 823(f) & 824(a), as well as 28 CFR 0.100(b) & 0.104, I hereby order that DEA Certificate Registration, BG3717278, issued to Randi M.

Germaine, M.D., be, and it hereby is, revoked. I further order that any pending applications for renewal or modification of his registration be, and they hereby are, denied. This order is effective immediately.

Dated: August 30, 2007.

Michele M. Leonhart,

Deputy Administrator.

[FR Doc. E7–17757 Filed 9–7–07; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Exemptions; D–11318, Barclays Global Investors, N.A., (BGI) and Its Investment Advisory Affiliates, Including Barclays Global Fund Advisors (BGFA; Together, the Applicants); and D–11420 BlackRock, Inc. (Black Rock) and Merrill Lynch & Co. (Merrill Lynch) (Collectively, the Applicants)

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. __, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: *moffitt.betty@dol.gov*, or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Barclays Global Investors, N.A., (BGI) and Its Investment Advisory Affiliates, Including Barclays Global Fund Advisors (BGFA; Together, the Applicants), Located in San Francisco, California

[Application No. D–11318]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR 2570, subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Transactions Involving Open-End Management Investment Companies Other Than Exchange-Traded Funds

Effective as of September 10, 2007, the restrictions of sections 406(a) and (b) of the Act, section 8477(c)(1) and (c)(2) of FERSA, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the acquisition, sale or exchange by an Account of shares, including through in-kind redemptions of shares or acquisitions of shares in exchange for Account assets transferred in-kind from an Account, of an open-end investment company (''the Fund'') registered under the Investment Company Act of 1940 (the 1940 Act), other than an exchange-traded fund (an ''ETF''), the Investment Adviser for which is also a fiduciary with respect to the Account (or an affiliate of such fiduciary) (hereinafter, BGI and all its affiliates will be referred to as ''Investment Adviser''), and the receipt of fees for acting as an investment adviser for such Funds, as well as fees for providing other services to the Funds which are ''Secondary Services,'' as defined herein, in connection with the investment by the Accounts in shares of the Funds, provided that the conditions set forth in Section II are met.

Section II. Conditions

(a) The Account does not pay a sales commission or other similar fees to the Investment Adviser or its affiliates in connection with such acquisition, sale, or exchange.

(b) The Account does not pay a redemption or similar fee to the Investment Adviser in connection with the sale by the Account to the Fund of such shares, and the existence of any other redemption fee is disclosed in the Fund's prospectus in effect at all times.

(c) The Account does not pay an investment management, investment advisory or similar fee with respect to

Account assets invested in Fund shares for the entire period of such investment. This condition does not preclude the payment of investment advisory fees by the Fund under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940 (the 1940 Act). This condition also does not preclude payment of an investment advisory fee by the Account under the following circumstances:

(1) For Accounts billed in arrears, an investment advisory fee may be paid based on total Account assets from which a credit has been subtracted representing the Account's pro rata share of investment advisory fees paid by the Fund;

(2) For Accounts billed in advance, the Investment Adviser must employ a reasonably designed method to ensure that the amount of the prepaid fee that constitutes the fee with respect to the Account assets invested in the Fund shares:

(A) Is anticipated and subtracted from the prepaid fee at the time of payment of such fee,

(B) Is returned to the Account no later than during the immediately following fee period or

(C) Is offset against the prepaid fee for the immediately following fee period or for the fee period immediately following thereafter. For purposes of this paragraph, a fee shall be deemed to be prepaid for any fee period if the amount of such fee is calculated as of a date not later than the first day of such period; or

(3) An investment advisory fee may be paid based on total plan assets if the Account will receive a cash rebate of such Account's proportionate share of all fees charged to the Fund by the Investment Adviser for investment management, investment advisory or similar services no later than one business day after the receipt of such fees by the Investment Adviser.

(d) The rebating, crediting, or offsetting of any fees in paragraph (c) is audited at least annually by the Investment Adviser through a system of internal controls to verify the accuracy of the fee mechanism adopted by the Investment Adviser under paragraph (c).

(e) The combined total of all fees received by the Investment Adviser for the provision of services to an Account, and for the provision of any services to a Fund in which an Account may invest, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act;

(f) The Investment Adviser and its affiliates do not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions covered by this proposed exemption;

(g) In advance of any initial investment in a Fund by a Separately Managed Account or by a new Plan investor in a Pooled Fund, a Second Fiduciary with respect to that Plan, who is independent of and unrelated to the Investment Adviser or any affiliate thereof, receives in written or in electronic form, full and detailed written disclosure of information concerning such Fund(s). The disclosure described in this paragraph (g) includes, but is not limited to:

(1) A current prospectus issued by each of the Fund(s);

(2) A statement describing the fees for investment advisory or similar services, any Secondary Services, and all other fees to be charged to or paid by the Account and by the Fund(s), including the nature and extent of any differential between the rates of such fees;

(3) The reasons why the Investment Adviser may consider such investment to be appropriate for the Account;

(4) A statement describing whether there are any limitations applicable to the Investment Adviser with respect to which Account assets may be invested in shares of the Fund(s) and, if so, the nature of such limitations, and

(5) A copy of the proposed exemption and the final exemption if it is published in the **Federal Register**, and any other reasonably available information regarding the transaction described herein that the Second Fiduciary requests.

(h) After receipt and consideration of the information referenced in paragraph (g), the Second Fiduciary of the Separately Managed Account or the new Plan investing in a Pooled Fund approves in writing the investment of Plan assets in each particular Fund and the fees to be paid by a Fund to the Investment Adviser.

(i)(1) In the case of existing Plan investors in a Pooled Fund, such Pooled Fund may not engage in any covered transactions pursuant to this proposed exemption, unless the Second Fiduciary receives in written or in electronic form, the information described in paragraph (2) of this paragraph (i) not less than 30 days prior to the Investment Adviser's engaging in the covered transactions on behalf of the Pooled Fund pursuant to this proposed exemption.

(2) The information required by paragraph (1) of this section includes:

(A) A notice of the Pooled Fund's intent to engage in the covered transactions described herein, a copy of the notice of proposed exemption, and a copy of the final exemption if it is published in the **Federal Register**;

(B) Any other reasonably available information regarding the covered transactions that a Second Fiduciary requests; and

(C) A Termination Form, within the meaning of paragraph (j).

Approval to engage in any covered transactions pursuant to this proposed exemption may be presumed notwithstanding that the Investment Adviser does not receive any response from a Second Fiduciary.

(j) All authorizations made by a Second Fiduciary regarding investments in a Fund and the fees paid to the Investment Adviser will be subject to an annual reauthorization wherein any such prior authorization shall be terminable at will by an Account, without penalty to the Account, upon receipt by the Investment Adviser of written notice of termination. A form expressly providing an election to terminate the authorization (''Termination Form'') with instructions on the use of the form will be supplied to the Second Fiduciary no less than annually, in written or in electronic form. The instructions for the Termination Form will include the following information:

(1) The authorization is terminable at will by the Account, without penalty to the Account, upon receipt by the Investment Adviser of written notice from the Second Fiduciary. Such termination will be effected by the Investment Adviser by selling the shares of the Fund held by the affected Account within one business day following receipt by the Investment Adviser of the Termination Form or any other written notice of termination; provided that if, due to circumstances beyond the control of the Investment Adviser, the sale cannot be executed within one business day, the Investment Adviser shall have one additional business day to complete such sale; and provided further that, where a Plan's interest in a Pooled Fund cannot be sold within this time frame, the Plan's interest will be sold as soon as administratively practicable;

(2) Failure of the Second Fiduciary to return the Termination Form will result in continued authorization of the Investment Adviser to engage in the covered transactions on behalf of an Account; and

(3) The identity of BGI, the asset management affiliate of BGI, and the affiliated investment advisers, and the address of the asset management affiliate of BGI. The instructions will state that this exemption is not available, unless the fiduciary of each Plan participating in the covered transactions as an investor in a Pooled

Fund is, in fact, independent of the Investment Adviser. The instructions will also state that the fiduciary of each such Plan must advise the asset management affiliate of BGI, in writing, if it is not a ''Second Fiduciary,'' as that term is defined, below, in Section V(l).

However, if the Termination Form has been provided to the Second Fiduciary pursuant to this paragraph or paragraphs (i), (k), or (l), the Termination Form need not be provided again for an annual reauthorization pursuant to this paragraph unless at least six months has elapsed since the form was previously provided.

(k) In situations where the Fund-level fee is neither rebated nor credited against the Account-level fee, The Second Fiduciary of each Account invested in a particular Fund will receive full disclosure, in written or in electronic form, in a statement which is separate from the Fund prospectus, of any proposed increases in the rates of fees for investment advisory or similar services, and any Secondary Services, at least 30 days prior to the implementation of such increase in fees, accompanied by a Termination Form. In situations where the Fund-level fee is rebated or credited against the Account-level fee, the Second Fiduciary will receive full disclosure, in a Fund prospectus or otherwise, in the same time and manner set forth above, of any increases in the rates of fees to be charged by the Investment Adviser to the Fund for investment advisory services. Failure to return the Termination Form will be deemed an approval of the increase and will result in the continued authorization of the Investment Adviser to engage in the covered transactions on behalf of an Account.

(l) In the event that the Investment Adviser provides an additional Secondary Service to a Fund for which a fee is charged or there is an increase in the rate of any fees paid by the Funds to the Investment Adviser for any Secondary Services resulting from either an increase in the rate of such fee or from a decrease in the number or kind of services provided by the Investment Adviser for such fees over an existing rate for such Secondary Service in connection with a previously authorized Secondary Service, the Second Fiduciary will receive notice, at least 30 days in advance of the implementation of such additional service or fee increase, in written or in electronic form, explaining the nature and the amount of such services or of the effective increase in fees of the affected Fund. Such notice shall be accompanied by a Termination Form. Failure to return the Termination Form will be deemed an approval of the Secondary Service and will result in continued authorization of the Investment Adviser to engage in the covered transactions on behalf of the Account.

(m) On an annual basis, the Second Fiduciary of an Account investing in a Fund, will receive, in written or in electronic form:

(1) A copy of the current prospectus for the Fund and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Fund which contains a description of all fees paid by the Fund to the Investment Adviser;

(2) A copy of the annual financial disclosure report of the Fund in which such Account is invested, which includes information about the Fund portfolios as well as audit findings of an independent auditor of the Fund, within 60 days of the preparation of the report; and

(3) With respect to each of the Funds in which an Account invests, in the event such Fund places brokerage transactions with the Investment Adviser, the Investment Adviser will provide the Second Fiduciary of such Account, in the same manner described above, at least annually with a statement specifying the following (and responses to oral or written inquiries of the Second Fiduciary as they arise):

(A) The total, expressed in dollars, brokerage commissions of each Fund's investment portfolio that are paid to the Investment Adviser by such Fund;

(B) The total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to the Investment Adviser;

(C) The average brokerage commissions per share, expressed as cents per share, paid to the Investment Adviser by each portfolio of a Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by each portfolio of a Fund to brokerage firms unrelated to the Investment Adviser.

(n) In all instances in which the Investment Adviser provides electronic distribution of information to Second Fiduciaries who have provided electronic mail addresses, such electronic disclosure will be provided in a manner similar to the procedures described in 29 CFR section 2520.104b–1(c).

(o) Any Separately Managed Account does not hold assets of a Plan sponsored by the Investment Adviser or an affiliate. If a Pooled Fund holds assets of a Plan or Plans sponsored by the Investment Adviser or an affiliate, the total assets of all such Plans shall not exceed 10% of the total assets of such Pooled Fund.

(p) In-kind transactions with an Account shall only involve publicly-traded securities for which market quotations are readily available, as determined pursuant to procedures established by the Funds under Rule 2a–4 of the 1940 Act, and cash in the event that the aforementioned securities are odd lot securities, fractional shares, or accruals on such securities. Such securities will not include:

(1) Securities that, if publicly offered or sold, would require registration under the Securities Act of 1933;

(2) Securities issued by entities in countries that (i) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Funds, or (ii) permit transfers of ownership of securities to be effected only by transactions conducted on a local stock exchange;

(3) Certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions, certificates of deposit and repurchase agreements), that, although liquid and marketable, involve the assumption of contractual obligations, require special trading facilities, or can be traded only with the counter-party to the transaction to effect a change in beneficial ownership;

(4) Cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements);

(5) Other assets that are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable); and

(6) Securities subject to ''stop transfer'' instructions or similar contractual restrictions on transfer.

(q) Subject to the exceptions described in section (p) above, in the case of an in-kind exchange of assets [in-kind redemptions and in-kind transfers of Plan assets] between an Account and a Fund (other than an ETF), the Account will receive its pro rata portion of the securities of the Fund equal in value to that of the number of shares redeemed, or the Fund shares having a total net asset value (NAV) equal to the value of the assets transferred on the date of the transfer, as determined in a single valuation, using sources independent of the Investment Adviser, performed in the same manner as it would for any other person or entity at the close of the same business day in accordance with the procedures established by the Fund pursuant to Rule 2a–4 under the 1940 Act, and the then-existing valuation procedures

established by its Board of Directors or Trustees, as applicable for the valuation of such assets, that are in compliance with the rules administered by the Securities and Exchange Commission (the SEC). In the case of a redemption, the value of the securities and any cash received by the Account for each redeemed Fund share equals the NAV of such share at the time of the transaction. In the case of any other in-kind exchange, the value of the Fund shares received by the Account equals the NAV of the transferred securities and any cash on the date of the transfer.

(r) The Investment Adviser shall provide the Second Fiduciary with a written confirmation containing information necessary to perform a post-transaction review of any in-kind transaction so that the material aspects of such transaction, including pricing, can be reviewed. Such information must be furnished no later than thirty (30) business days after the completion of the in-kind transaction. This information shall include:

(1) With respect to securities either transferred by, or received, by an Account in-kind in exchange for Fund shares,

(i) the identity of each security either received by the Account pursuant to the redemption, or transferred to the Fund by the Account, (and the related aggregate dollar value of all securities) determined in accordance with Rule 2a–4 under the 1940 Act and the then-existing procedures established by the Board of Trustees of the Fund (using sources independent of the Investment Adviser); and

(ii) the current market price of each security transferred or received in-kind by the Account as of the date of the in-kind transfer.

(2) With respect to Fund shares either transferred by, or received by, an Account in-kind in exchange for securities,

(i) the number of Fund shares held by the Account immediately before the redemption (and the related per share net asset value and the total dollar value of Fund shares, determined in accordance with Rule 2a–4 under the 1940 Act, using sources independent of the Investment Adviser); or

(ii) the number of Fund shares held by the Account immediately after the in-kind transfer (and the related per share net asset value of the Fund shares received and the total dollar value of Fund shares, determined in accordance with Rule 2a–4 under the 1940 Act using sources independent of the Investment Adviser).

(3) The identity of each pricing service or market-maker consulted in determining the value of the securities.

(s) Prior to the consummation of an in-kind transaction, the Investment Adviser must document in writing and determine that such transaction is fair to the Account and comparable to, and no less favorable than, terms obtainable at arm's-length between unaffiliated parties, and that the in-kind transaction is in the best interests of the Account and the participants and beneficiaries of the participating Plans.

(t) All of the Accounts' other dealings with the Funds, the Investment Adviser, or any affiliated person thereof, are on terms that are no less favorable to the Account than such dealings are with other shareholders of the Funds.

(u) BGI and its affiliates, as applicable, maintain, or cause to be maintained, for a period of six

(6) years from the date of any covered transaction such records as are necessary to enable the persons, described, below, in Section II(v), to determine whether the conditions of this exemption have been met, except that—

(1) No party in interest with respect to a Plan which engages in the covered transactions, other than BGI, and its affiliates, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by Section II(v); and

(2) A separate prohibited transaction shall not be considered to have occurred solely because due to circumstances beyond the control of BGI or its affiliate, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(v)(1) Except as provided, below, in Section II(v)(2), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in Section II(t) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the SEC; or

(ii) Any fiduciary of any Plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(iii) Any employer of participants and beneficiaries and any employee organization whose members are covered by a Plan that engages in the covered transactions, or any authorized employee or representative of these entities; or

(iv) Any participant or beneficiary of a Plan that engages in the covered transactions, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described, above, in Section II(v)(1)(ii)–(iv) shall be authorized to examine trade secrets of the Investment Adviser, or commercial or financial information which is privileged or confidential; and

(3) Should the Investment Adviser refuse to disclose information on the basis that such information is exempt from disclosure, the Investment Adviser shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Section III. Transactions Involving Exchange-Traded Funds

Effective as of September 10, 2007, the restrictions of sections 406(a) and (b) of the Act, section 8477(c)(1) and (c)(2) of FERSA, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the following transactions involving an Account and an ETF, the Investment Adviser for which is also a fiduciary with respect to the Account (or an affiliate of such fiduciary) (i.e., ''Investment Adviser''), and the receipt of fees for acting as an investment adviser for such ETF, as well as fees for providing other services to the ETF which are ''Secondary Services,'' as defined herein, in connection with the investment by the Account in shares of the ETF, provided that the conditions set forth in Section IV are met:

(a) The acquisition, sale or exchange by an Account of ETF shares, including through in-kind exchanges, in a principal transaction with a broker-dealer not an affiliate of the Investment Adviser, registered under the Securities Exchange Act of 1934, including an Authorized Participant.

(b) The acquisition or sale by an Account of ETF shares on a national securities exchange when a broker-dealer not an affiliate of the Investment Adviser, registered under the Securities Exchange Act of 1934, including an Authorized Participant, acts as agent for the Account.

(c) The acquisition, sale or exchange by an Account of ETF shares, including through in-kind exchanges, through an Authorized Participant, acting as an agent dealing directly with the ETF, and the Account is exchanging securities and/or cash for the ETF shares during a Creation process, or exchanging ETF

shares for securities and/or cash during a Redemption process.

Section IV. Conditions

(a)(1) In the case of a principal transaction described in Section III(a), the specific terms of the transaction are fixed at the time the Account agrees to exchange the in-kind assets with the broker-dealer.

(2) In the case of a transaction described in Section III(c), the value of the securities transferred to the ETF, in exchange for ETF shares issued at the closing ETF NAV at the end of the business day, and the value of the securities received from the ETF, in exchange for ETF shares redeemed at the closing ETF NAV at the end of the business day is: (A) Determined pursuant to a single valuation using sources independent of the Investment Adviser; and (B) Performed in the same manner as it would for any other person or entity at the end of the same business day. Such valuation is made in accordance with procedures established by the ETF pursuant to Rule 2a–4 under the 1940 Act, and the then existing valuation procedures established by its Board of Directors or Trustees, as applicable, that are in compliance with the rules administered by the SEC.

In the case of a redemption, the value of the securities and any cash received by the Account for each redeemed ETF share equals the NAV of such share at the time of the transaction. In the case of any other in-kind exchange, the value of the ETF shares received by the Account equals the NAV of the transferred securities and any cash on the date of the transfer.

(b) All ETFs are either Index Funds or Model-Driven Funds.

(c) The Authorized Participant is not an affiliate of the Investment Adviser.

(d) Conditions (a) through (p), and (r) through (v) of Section II have been met. For purposes of this Section IV(d), the term ''Fund'' in Section II includes an ETF.

Section V. Definitions

(a) The term ''Account'' means either a Separately Managed Account or a Pooled Fund in which investments are made by plans described in section 3(3) of the Act and/or section 4975(e)(1) of the Code and a plan covered by The Federal Employees' Retirement System Act of 1986 (FERSA).

(b) An ''affiliate'' of a person includes any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person; any officer of, director of, highly compensated employee (within the meaning of Code section 4975(e)(2)(H)) of, or partner in any such person; and any corporation or partnership of which such person is an officer, director, partner or owner, or highly compensated employee (within the meaning of Code section 4975(e)(2)(H)).

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Authorized Participant'' means a broker-dealer registered under the Securities Exchange Act of 1934 which may acquire or redeem ETF Shares directly from ETFs. Such Authorized Participant is not an affiliate of the Investment Adviser.

(e) The term ''Fund'' means any open end investment company registered under the Investment Company Act of 1940, including exchange-traded funds.

(f) The term ''Index'' means a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States and/or foreign countries, but only if—

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients;

(B) A publisher of financial news or information;

(C) A public securities exchange or association of securities dealers; and,

(2) The index is created and maintained by an organization independent of the Applicants and their affiliates; and,

(3) The index is a generally accepted standardized index of securities which is not specifically tailored for the use of the Applicants.

(g) The term ''Index Fund'' means any investment fund, sponsored, maintained, trusteed or managed by the Applicants, in which one or more investors invest, and—

(1) Which is designed to track the rate of return, risk profile, and other characteristics of an independently maintained securities index by either (i) replicating the same combination of securities that compose such index, or (ii) sampling the securities that compose such index based on objective criteria and data;

(2) For which the Applicants do not use their discretion, or data within their control, to affect the identity or amount of securities to be purchased or sold; and

(3) That involves no agreement, arrangement or understanding regarding the design or operation of the Fund which is intended to benefit the Applicants, their affiliates, or any party in which the Applicants or their affiliates have an interest.

(h) The term ''Investment Adviser'' means Barclays Global Investors, N.A. or any of its current or future affiliates.

(i) The term ''Model-Driven Fund'' means any investment fund, sponsored, maintained, trusteed or managed by the Applicants, in which one or more investors invest, and—

(1) Which is composed of securities the identity of which and the amount of which are selected by a computer model that is based on prescribed objective criteria using independent third party data not within the control of the Applicants, to transform an index (as defined in (f), above); and

(2) That involves no agreement, arrangement or understanding regarding the design or operation of the fund or the utilization of any specific objective criteria which is intended to benefit the Applicants, their affiliates, or any party in which the Applicants or their affiliates may have an interest.

(j) The term ''Plan'' means a plan described in section 3(3) of the Act, a plan described in section 4975(e)(1) of the Code, and a plan covered by FERSA.

(k) The term ''Pooled Fund'' means any commingled fund sponsored, maintained, advised or trusteed by the Investment Adviser, which fund holds Plan assets.

(l) The term ''Second Fiduciary'' means a fiduciary of a Plan who is independent of and unrelated to the Investment Adviser. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to the Investment Adviser if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with the Investment Adviser;

(2) Such fiduciary, or any officer, director, partner, or employee of the fiduciary is an officer, director, partner, employee or affiliate of the Investment Adviser; or

(3) Such fiduciary directly or indirect receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption. If an officer, director, partner, affiliate or employee of the Investment Adviser is a director of such Second Fiduciary, and if he or she abstains from participation in (A) the choice of the Plan's investment adviser, (B) the approval for the acquisition, sale, holding, and/or exchange of Fund shares by such Plan, and (C) the

approval of any change in fees charged to or paid by the Plan in connection with any of the transactions described herein, then subparagraph (2) above shall not apply.

(m) The term ''Secondary Service'' means a service other than an investment management, investment advisory or similar service which is provided by the Investment Adviser to the Funds, including but not limited to custodial, accounting, brokerage, administrative or any other similar service.

(n) The term ''Separately Managed Account'' means any Account other than a Pooled Fund, and includes single-employer Plans.

(o) The term ''Creation'' or ''Redemption'' refers to a transaction where the ETF is the buyer or seller of large-blocks of ETF shares.

Summary of Facts and Representations

1. BGI is a national banking association headquartered in San Francisco, California. BGI serves as an investment manager and fiduciary for employee benefit plans governed by the Act which are invested in both separately managed accounts and pooled funds. BGI also manages certain assets for the Federal Thrift Savings Plan established pursuant to the provisions of FERSA. The employee benefit plans to be covered by this exemption, including the Thrift Savings Plan, will be referred to as ''Plans.''

2. BGI seeks an exemption under the Act, as amended, the Code, and FERSA, for the investment of Plan Account assets in certain open-end investment companies registered under the 1940 Act (*i.e.*, ''Funds''), some of which are exchange-traded funds (*i.e.*, ''ETFs''), managed or advised by BGI or its investment advisory affiliates, including BGFA.

3. The Applicants represent that the proposed transactions may violate the Act, the Code, and/or FERSA, because the investment of Plan assets in the Funds may constitute a prohibited furnishing of services, or transfer of Plan assets to a party in interest or a fiduciary.

4. The relief sought by the Applicants involves the investment of Separately Managed Accounts, as well as the assets of Pooled Funds, in both ''iShares®,'' which are exchange-traded funds (i.e., ETFs) advised by BGFA, and other open-end investment companies also advised by BGFA. The Applicants represent that BGFA is an investment adviser registered under the Investment Advisers Act of 1940. BGFA provides investment advice to various accounts and funds, including as an investment adviser or sub-adviser to certain mutual funds and exchange-traded funds.

5. An ETF is an open-end investment company registered under the 1940 Act. Shares issued by each ETF are registered under the Securities Act of 1933. ETF shares are continuously offered to the public in the secondary market through securities exchanges and can be purchased and redeemed on a daily basis. Such shares can be bought and sold by investors on a securities exchange, through brokers, acting as agent, throughout the trading day like other shares of publicly-traded securities. In such a case, the investors would pay the price then prevailing on the exchange plus customary brokerage commissions.[1] There is no minimum investment for such secondary market transactions.

6. Alternatively, an investor who buys or sells iShares may engage in the transaction directly with the broker, which executes as principal. Under this circumstance, the broker (which may or may not be an Authorized Participant) may buy the iShares for its own inventory or sell the iShares from its own inventory (on a principal basis), in which case the customer would pay a mark-up or a mark-down (dealer spread) that is part of the sales price. The Account in this case specifies a set number of iShares that it wants to buy from, or sell to, the broker. The Account and the broker negotiate upfront and agree upon (i) what the purchase or sale price of the iShares will be and (ii) whether the Account will pay or receive (as the case may be) cash, in-kind securities, or a combination of both. Thus, the specific terms of the transaction are fixed at the time the parties agree to enter the transaction.

7. The ETF purchases and redeems shares at the ETF's then net asset value (i.e., ''NAV'') only in large blocks, generally through an in-kind tender of a basket of securities by a broker-dealer called an ''Authorized Participant.''[2] Only Authorized Participants may acquire or redeem iShares directly from iShares Funds, and only in large block sizes (*e.g.*, 50,000 shares). Such an acquisition and redemption are called ''Creation'' and ''Redemption,'' respectively. An Authorized Participant may acquire or redeem iShares as principal for its own account, or as agent on behalf of a customer in a transaction directly with an ETF.

8. To effect a purchase or sale through an Authorized Participant on an agency basis where the buyer or seller is the Fund and the process is by creation or redemption, the Investment Adviser, acting as a fiduciary, may approach an Authorized Participant who is not one of the Applicants (or an affiliate) to purchase or sell ETF shares on behalf of an Account. As part of this process, the Authorized Participant may purchase ETF shares on behalf of an Account by assembling a ''creation unit'' of the securities held by the ETF, such as S&P 500 securities in appropriate weights for an S&P 500 Index ETF. An Account may provide all or part of the securities necessary to make up a ''creation unit.'' For creation units, the Account transfers cash, in-kind securities, or a mix of cash and in-kind securities to the Fund in exchange for iShares using that day's NAV, at the close of business, as determined by the ETF in accordance with the rules governing registered investment companies. For redemptions, the Plan transfers the iShares to the ETF in exchange for in-kind securities and cash, if necessary, using the valuation of the assets used by the ETF in accordance with the rules governing registered investment companies. The purchase and sale price is the NAV of iShares next determined after an order is placed and is the same price that is paid or received for the iShares by any other investor at that time dealing with the ETF. Thus, if an order is placed for shares during the day, it is priced at the NAV at the end of that day. The basket of securities to be delivered or received on account of a creation or redemption is specified by the ETF to all Authorized Participants in advance each day because the securities ''called for'' each day may be driven by the output of a model which may require deviations from the underlying index. The amount of cash needed to round out the order would be determined as of the time the NAV is calculated based on the difference between the value of the in-kind securities and the Fund NAV as of the time that the NAV is calculated.

9. The Applicants represent that the decision as to which method is used to effect a purchase or sale is a fiduciary decision which is governed by the prudence and exclusive benefit requirements of the Act. Because the

[1] In Advisory Opinion 2002–05A (June 7, 2002), the Department considered whether Prohibited Transaction Exemption 77–4 (PTE 77–4, 42 FR 18732, April 8, 1977) applies to purchases or sales of ETF shares through unaffiliated brokers. The Department stated that the term ''sales commission'' as used in section II(a) of PTE 77–4 does not include brokerage commissions paid to a broker in connection with purchases or sales of shares of registered open-end investment companies on an exchange if the broker is unaffiliated with the fund, its principal underwriter, investment adviser or any affiliate thereof.

[2] Where purchases and redemptions involve an in-kind transaction, cash may be exchanged to make up for any difference between securities exchanged and the NAV of a Fund.

transactions are never executed through an affiliated broker, the Applicants' affiliates do not benefit from the trading. The fiduciary makes the decision for the Plan, as it makes all trading decisions, and bases the decisions on the most cost-effective method for the Plan, where the Plan will receive the most advantageous prices available for the securities with the lowest attendant transaction fees.

10. An Authorized Participant's arrangement with an ETF distributor [3] is subject to an agreement between those two parties. Where the Authorized Participant does not have the requisite ETF shares in its possession, or prefers not to trade such ETF shares, it may assemble a creation unit in exchange for ETF shares, pursuant to its arrangement with the ETF distributor.

11. The Applicants represent that the transactions that would be covered by the proposed exemption are substantially similar to the transactions permitted under PTE 77–4 and similar individual exemptions.[4] As described below, the Investment Adviser will follow similar procedures to those set forth in PTE 77–4 in order to avoid duplicative investment management and advisory fees, and procedures similar to PTE 86–128 and other individual exemptions with respect to obtaining consent for the transactions described herein. In situations where the Fund-level fee is neither rebated nor credited against the Account-level fee, there must be separate disclosure (apart from the prospectus) of any proposed increases in the rates of fees for investment advisory or similar services, and any Secondary Services, at least 30 days prior to the implementation of such increase in fees, accompanied by a Termination Form, made to the Second Fiduciary.

12. The Applicants represent that investment in Funds is customary for Plan investors and is becoming increasingly more popular. If Plans (particularly those invested in Pooled Funds) cannot invest in Funds, they cannot take advantage of a beneficial and liquid investment opportunity. The Applicants also represent that the more practical rules on negative consent that were adopted by the Department in PTE 86–128 and later exemptions are not included in PTE 77–4 or similar exemptions, making the latter set of exemptions less helpful.

13. The Applicants represent that among the reasons why the Investment Adviser may determine that investment in Funds is appropriate to achieve the investment objectives of an Account is the management of liquidity. Many Accounts require liquidity, especially in the defined contribution plan context, and pooled funds have a particular need for liquidity to deal with inflows and outflows of assets. Fully investing a pooled fund in securities, only to liquidate any time a Plan requests a distribution, creates additional costs that are not in the best interest of these Accounts. On the other hand, cash left idle (or invested in money market instruments, cash funds, or the like) fails to replicate the model or index of the Account, creating tracking error or benchmark drift. The Applicants represent that another reason that Plans may want to invest in Funds is that they also provide a beneficial method of equitizing investment assets.

14. The requested exemption would permit acquisitions, sales and exchanges of Fund shares, both in cash or in-kind. The Applicants represent that in-kind exchanges are appropriate to advance client objectives where, for example, a client is changing managers and wants an Account to have a particular exposure (i.e., exposure to a particular investment strategy) during the transition period.

15. The Applicants represent that if the Account specifies in its order that it will use in-kind (or a combination of in-kind and cash) to acquire the iShares or wants to receive in-kind (or a combination of in-kind and cash) for its iShares, there is a natural hedge between the in-kind securities and the iShares. The market value of the in-kind securities determines the NAV of the iShares. Therefore, as the Account waits for Creation or Redemption to be done at the end of the day, at NAV, if the market value of the in-kind securities goes up or down, the NAV of the iShares will go up or down (as the case may be) in tandem. This is different than a Plan's purchase of mutual fund shares, where the Plan would have exposure to market moves between the time it places an order and the time that the value of any shares (i.e., NAV) purchased or redeemed is determined.

16. The Applicants represent that, although the requested exemption will permit the Investment Adviser to consider ETFs and other Funds as possible investments, where there are identical investment alternatives, it is up to the investment manager to determine which approach is best for Plans. In some markets, such as certain emerging market equity strategies, other reasonable alternatives may not exist.

17. The Applicants represent that investment in the Funds would only take place when such investment is consistent with the investment guidelines of a Separately Managed Account or Pooled Fund, and where such investment is appropriate to achieve the investment objectives of such account or fund.

18. ETFs have an imbedded management fee (paid to BGFA), and a commission for secondary market purchases may also be paid to unaffiliated brokers with respect to investment in an ETF.

19. The Applicants represent that investment management fees related to investment in the Funds would be offset, credited or waived at the Account level, as provided for in PTE 77–4 and other similar individual exemptions. The Applicants represent that the billing systems and processes at BGI have been designed to correctly rebate or credit the advisory fees from Funds against the Plan level fees or credit the Plan level fees. These processes and systems are part of the billing function of BGI, and with respect to PTE 77–4 compliance, have been tested over the years to ensure compliance.

20. The Applicants represent that often, where Plans are invested in a pooled vehicle, the rules in PTE 77–4 that relate to investment of pooled vehicles in open-end investment companies are expensive to administer, impractical, time consuming and burdensome. In particular, it is represented that it is difficult for many pooled vehicles to comply with written consent requirements similar to those contained in PTE 77–4.

21. The requested exemption would require the Investment Adviser to provide certain disclosures to Separately Managed Accounts, and to Accounts invested in Pooled Funds, prior to investing in the Funds, but would permit ''deemed consent'' or negative consent to occur where the Investment Adviser receives no response to such disclosures. In addition, the proposed exemption contains disclosure and consent procedures which would apply with respect to existing Account investors in a pooled fund. The proposed exemption contains annual reauthorization requirements, which may be satisfied through the use of a Termination Form,

[3] The ''distributor'' of a registered investment company is a statutory term under the 1940 Act. The distributor of an ETF or other registered investment company is a registered broker-dealer that accepts orders to purchase or redeem Fund shares from intermediaries on behalf of the Fund.

[4] Although Advisory Opinion 2002–05A addressed whether PTE 77–4 would be available for purchases or sales of ETF shares on an exchange if brokerage commissions were paid to an unaffiliated broker-dealer, the Applicants requested that the transaction described in that Advisory Opinion be included in the relief provided by this proposed exemption so that the Investment Adviser has the ability to comply with the requirements of this proposal rather than PTE 77–4.

similar to the requirements contained in other exemptions similar to PTE 77–4.

22. The proposed exemption would allow disclosures to be provided in written or in electronic form. A Second Fiduciary may request a non-electronic copy of any required disclosure. In all instances in which the Investment Adviser provides electronic distribution of information to Second Fiduciaries who have provided electronic mail addresses, such electronic disclosure will be provided in a manner similar to the procedures described in 29 CFR section 2520.104b–1(c) to ensure that the Investment Adviser's system of providing electronic disclosures results in actual receipt by the intended recipient.

23. The proposed exemption includes a condition which would prohibit Separately Managed Accounts that hold assets of a Plan sponsored by the Investment Adviser from engaging in the proposed transactions. In addition, if a Pooled Fund engaging in the proposed transactions holds assets of a Plan or Plans sponsored by the Investment Adviser or its affiliate, the total assets of all such Plans invested in such Pooled Fund shall not exceed 10% of the total assets of such Pooled Fund.

24. The proposed exemption contains valuation requirements which apply to any in-kind exchange between a Plan and a Fund. In general, the condition requires that the value of securities received by an Account with respect to an in-kind exchange with a Fund will be determined based on the same valuation principles which govern valuation of the underlying securities held by the Fund, and will use the same pricing sources used by the Fund with respect to its assets. Each Fund must also value its assets pursuant to procedures established by the Fund's Board of Directors or Trustees, as applicable, and as required by the 1940 Act.

25. In summary, the Applicants represent that the criteria of section 408(a) of the Act are satisfied for the following reasons: (a) The transactions will allow the Plans to enjoy the advantages of investment in ETFs, which will provide the Plans with liquid investments; (b) Prior to the initial investment of Plan assets in the Funds, a second, independent fiduciary of each Plan will receive full disclosure regarding the proposed investment and the fees to be received by the Investment Adviser, and has the opportunity to approve or disapprove the investment; (c) No sales commissions or similar fees will be paid by the Accounts to the Investment Adviser in connection with such purchase, sale or exchange; (d) No Separately Managed Account holding assets of a Plan sponsored by the Investment Adviser will engage in the proposed transactions, and if a Pooled Fund engaging in the proposed transactions holds assets of a Plan or Plans sponsored by the Investment Adviser, the total assets of all such Plans invested in such Pooled Fund shall not exceed 10% of the total assets of such Pooled Fund; (e) In-kind transactions with an Account will only involve securities which are publicly-traded and for which market quotations are readily available; (f) The Investment Adviser and its affiliates will not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions described herein; (g) The Accounts will pay no redemption or similar fees to the Investment Adviser in connection with the sales by the Account to Funds of Fund shares; (h) There will be no double payment of investment management, investment advisory and similar fees to the Investment Adviser by the Accounts; and (i) The combined total of all fees received by the Investment Adviser for the provision of services to an Account, and in connection with the provision of any services to any of the Funds in which an Account may invest, will not be in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

BlackRock, Inc. (BlackRock), and Merrill Lynch & Co. (Merrill Lynch) (collectively, the Applicants), Located in New York, New York

[Application No. D–11420]

Proposed Exemption

The Department of Labor (the Department) is considering granting an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) and section 4975(c)(2) of the Internal Revenue Code of 1986 (the Code) and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I—Transactions

If the proposed exemption is granted, the restrictions of section 406 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the purchase of certain securities (the Securities), as defined below in Section III(k), by an Asset Manager, as defined below in Section III(f), from any person other than a Merrill Lynch/BlackRock Related Entity or Merrill Lynch/BlackRock Related Entities, as defined below in Section III(c), during the existence of an underwriting or selling syndicate with respect to such Securities, where a Merrill Lynch/BlackRock Related Broker-Dealer, as defined below in Section III(b), is a manager or member of such syndicate and the Asset Manager purchases such Securities, as a fiduciary:

(a) On behalf of an employee benefit plan or employee benefit plans (Client Plan(s)), as defined below in Section III(h); or

(b) on behalf of Client Plans, and/or In-House Plans, as defined below in Section III(o), which are invested in a pooled fund or in pooled funds (Pooled Fund(s)), as defined below in Section III(i); provided that the conditions as set forth below in Section II, are satisfied (An affiliated underwriter transaction (AUT)).[5]

Section II—Conditions

The proposed exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following requirements:

(a)(1) The Securities to be purchased are either—

(i) Part of an issue registered under the Securities Act of 1933 (the 1933 Act) (15 U.S.C. 77a *et seq.*). If the Securities to be purchased are part of an issue that is exempt from such registration requirement, such Securities:

(A) Are issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States,

(B) Are issued by a bank,

(C) Are exempt from such registration requirement pursuant to a federal statute other than the 1933 Act, or

(D) Are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such Securities and that has filed all reports required to be filed thereunder with the Securities and Exchange Commission (SEC) during the preceding twelve (12) months; or

[5] For purposes of this proposed exemption an In-House Plan may engage in AUTs only through investment in a Pooled Fund.

(ii) Part of an issue that is an Eligible Rule 144A Offering, as defined in SEC Rule 10f–3 (17 CFR 270.10f–3(a)(4)). Where the Eligible Rule 144A Offering of the Securities is of equity securities, the offering syndicate shall obtain a legal opinion regarding the adequacy of the disclosure in the offering memorandum;

(2) The Securities to be purchased are purchased prior to the end of the first day on which any sales are made, pursuant to that offering, at a price that is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities, except that—

(i) If such Securities are offered for subscription upon exercise of rights, they may be purchased on or before the fourth day preceding the day on which the rights offering terminates; or

(ii) If such Securities are debt securities, they may be purchased at a price that is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities and may be purchased on a day subsequent to the end of the first day on which any sales are made, pursuant to that offering, provided that the interest rates, as of the date of such purchase, on comparable debt securities offered to the public subsequent to the end of the first day on which any sales are made and prior to the purchase date are less than the interest rate of the debt Securities being purchased; and

(3) The Securities to be purchased are offered pursuant to an underwriting or selling agreement under which the members of the syndicate are committed to purchase all of the Securities being offered, except if—

(i) Such Securities are purchased by others pursuant to a rights offering; or

(ii) Such Securities are offered pursuant to an over-allotment option.

(b) The issuer of the Securities to be purchased pursuant to this proposed exemption must have been in continuous operation for not less than three years, including the operation of any predecessors, unless the Securities to be purchased—

(1) Are non-convertible debt securities rated in one of the four highest rating categories by Standard & Poor's Rating Services, Moody's Investors Service, Inc., Fitch Ratings, Inc., Dominion Bond Rating Service Limited, Dominion Bond Rating Service, Inc., or any successors thereto (collectively, the Rating Organizations); provided that none of the Rating Organizations rates such securities in a category lower than the fourth highest rating category; or

(2) are debt securities issued or fully guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States; or

(3) are debt securities which are fully guaranteed by a person (the Guarantor) that has been in continuous operation for not less than three years, including the operation of any predecessors, provided that such Guarantor has issued other securities registered under the 1933 Act; or if such Guarantor has issued other securities which are exempt from such registration requirement, such Guarantor has been in continuous operation for not less than three years, including the operation of any predecessors, and such Guarantor:

(a) Is a bank, or

(b) Is an issuer of securities which are exempt from such registration requirement, pursuant to a Federal statute other than the 1933 Act; or

(c) Is an issuer of securities that are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such securities and that has filed all reports required to be filed hereunder with the SEC during the preceding twelve (12) months.

(c) The aggregate amount of Securities of an issue purchased, pursuant to this proposed exemption, by the Asset Manager with: (i) The assets of all Client Plans; and (ii) the assets, calculated on a *pro-rata* basis, of all Client Plans and In-House Plans investing in Pooled Funds managed by the Asset Manager; and (iii) the assets of plans to which the Asset Manager renders investment advice within the meaning of 29 CFR 2510.3–21(c) does not exceed:

(1) 10 percent (10%) of the total amount of the Securities being offered in an issue, if such Securities are equity securities;

(2) 35 percent (35%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in one of the four highest rating categories by at least one of the Rating Organizations; provided that none of the Rating Organizations rates such Securities in a category lower than the fourth highest rating category; or

(3) 25 percent (25%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in the fifth or sixth highest rating categories by at least one of the Rating Organizations; provided that none of the Rating Organizations rates such Securities in a category lower than the sixth highest rating category; and

(4) The assets of any single Client Plan (and the assets of any Client Plans and any In-House Plans investing in Pooled Funds) may not be used to purchase any Securities being offered, if such Securities are debt securities rated lower than the sixth highest rating category by any of the Rating Organizations;

(5) Notwithstanding the percentage of Securities of an issue permitted to be acquired, as set forth in Section II(c)(1), (2), and (3), above, of this proposed exemption, the amount of Securities in any issue (whether equity or debt securities) purchased, pursuant to this proposed exemption, by the Asset Manager on behalf of any single Client Plan, either individually or through investment, calculated on a *pro-rata* basis, in a Pooled Fund may not exceed three percent (3%) of the total amount of such Securities being offered in such issue, and;

(6) If purchased in an Eligible Rule 144A Offering, the total amount of the Securities being offered for purposes of determining the percentages, described, above, in Section II(c)(1)–(3) and (5), is the total of:

(i) The principal amount of the offering of such class of Securities sold by underwriters or members of the selling syndicate to ''qualified institutional buyers'' (QIBs), as defined in SEC Rule 144A (17 CFR 230.144A(a)(1)); plus

(ii) The principal amount of the offering of such class of Securities in any concurrent public offering.

(d) The aggregate amount to be paid by any single Client Plan in purchasing any Securities which are the subject of this proposed exemption, including any amounts paid by any Client Plan or In-House Plan in purchasing such Securities through a Pooled Fund, calculated on a *pro-rata* basis, does not exceed three percent (3%) of the fair market value of the net assets of such Client Plan or In-House Plan, as of the last day of the most recent fiscal quarter of such Client Plan or In-House Plan prior to such transaction.

(e) The covered transactions are not part of an agreement, arrangement, or understanding designed to benefit any Merrill/Lynch BlackRock Related Entity.

(f) No Merrill Lynch/BlackRock Related Broker-Dealer receives, either directly, indirectly, or through

designation, any selling concession, or other compensation or consideration that is based upon the amount of Securities purchased by any single Client Plan, or that is based on the amount of Securities purchased by Client Plans or In-House Plans through Pooled Funds, pursuant to this proposed exemption. In this regard, a Merrill Lynch/BlackRock Related Broker-Dealer may not receive, either directly or indirectly, any compensation or consideration that is attributable to the fixed designations generated by purchases of the Securities by the Asset Manager on behalf of any single Client Plan or any Client Plan or In-House Plan in Pooled Funds.

(g)(1) The amount a Merrill Lynch/BlackRock Related Broker-Dealer receives in management, underwriting, or other compensation or consideration is not increased through an agreement, arrangement, or understanding for the purpose of compensating such Merrill Lynch/BlackRock Related Broker-Dealer for foregoing any selling concessions for those Securities sold pursuant to this proposed exemption. Except as described above, nothing in this Section II(g)(1) shall be construed as precluding a Merrill Lynch/BlackRock Related Broker-Dealer from receiving management fees for serving as manager of an underwriting or selling syndicate, underwriting fees for assuming the responsibilities of an underwriter in the underwriting or selling syndicate, or other compensation or consideration that is not based upon the amount of Securities purchased by the Asset Manager on behalf of any single Client Plan, or on behalf of any Client Plan or In-House Plan participating in Pooled Funds, pursuant to this proposed exemption; and

(2) Each Merrill Lynch/BlackRock Related Broker-Dealer shall provide to the Asset Manager a written certification, signed by an officer of such Merrill Lynch/BlackRock Related Broker-Dealer, stating the amount that each such Merrill Lynch/BlackRock Related Broker-Dealer received in compensation or consideration during the past quarter, in connection with any offerings covered by this proposed exemption, was not adjusted in a manner inconsistent with Section II(e), (f), or (g) of this proposed exemption.

(h) The covered transactions are performed under a written authorization executed in advance by an independent fiduciary of each single Client Plan (the Independent Fiduciary), as defined, below, in Section III(j).

(i) Prior to the execution by an Independent Fiduciary of a single Client Plan of the written authorization described, above, in Section II(h), the following information and materials (which may be provided electronically) must be provided by the Asset Manager to such Independent Fiduciary:

(1) A copy of the Notice of Proposed Exemption (the Notice) and a copy of the final exemption (the Grant) as published in the **Federal Register**, provided that the Notice and the Grant are supplied simultaneously; and

(2) Any other reasonably available information regarding the covered transactions that such Independent Fiduciary requests the Asset Manager to provide.

(j) Subsequent to the initial authorization by an Independent Fiduciary of a single Client Plan permitting the Asset Manager to engage in the covered transactions on behalf of such single Client Plan, the Asset Manager will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary requests the Asset Manager to provide.

(k)(1) In the case of an existing employee benefit plan investor (or existing In-House Plan investor, as the case may be) in a Pooled Fund, such Pooled Fund may not engage in any covered transactions pursuant to this proposed exemption, unless the Asset Manager provides the written information, as described, below, and within the time period described, below, in this Section II(k)(2), to the Independent Fiduciary of each such plan participating in such Pooled Fund (and to the fiduciary of each such In-House Plan participating in such Pooled Fund).

(2) The following information and materials, (which may be provided electronically) shall be provided by the Asset Manager not less than 45 days prior to such Asset Manager engaging in the covered transactions on behalf of a Pooled Fund, pursuant to this proposed exemption; and provided further that the information described, below, in this Section II(k)(2)(i) and (iii) is supplied simultaneously:

(i) A notice of the intent of such Pooled Fund to purchase Securities pursuant to this proposed exemption, a copy of this Notice, and a copy of the Grant, as published in the **Federal Register**;

(ii) Any other reasonably available information regarding the covered transactions that the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund requests the Asset Manager to provide; and

(iii) A termination form expressly providing an election for the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund to terminate such plan's (or In-House Plan's) investment in such Pooled Fund without penalty to such plan (or In-House Plan). Such form shall include instructions specifying how to use the form. Specifically, the instructions will explain that such plan (or such In-House Plan) has an opportunity to withdraw its assets from a Pooled Fund for a period of no more than 30 days after such plan's (or such In-House Plan's) receipt of the initial notice of intent, described, above, in Section II(k)(2)(i), and that the failure of the Independent Fiduciary of such plan (or fiduciary of such In-House Plan) to return the termination form to the Asset Manager in the case of a plan (or In-House Plan) participating in a Pooled Fund by the specified date shall be deemed to be an approval by such plan (or such In-House Plan) of its participation in the covered transactions as an investor in such Pooled Fund.

Further, the instructions will identify the Asset Manager and the Merrill Lynch/BlackRock Related Broker-Dealer and will provide the address of the Asset Manager. The instructions will state that this proposed exemption may be unavailable, unless the fiduciary of each plan participating in the covered transactions as an investor in a Pooled Fund is, in fact, independent of the Merrill Lynch/BlackRock Related Entities. The instructions will also state that the fiduciary of each such plan must advise the Asset Manager, in writing, if it is not an ''Independent Fiduciary,'' as that term is defined, below, in Section III(j).

For purposes of this Section II(k), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this proposed exemption for each plan be independent of the Merrill Lynch/BlackRock Related Entities shall not apply in the case of an In-House Plan.

(l)(1) In the case of each plan (and in the case of each In-House Plan) whose assets are proposed to be invested in a Pooled Fund after such Pooled Fund has satisfied the conditions set forth in this proposed exemption to engage in the covered transactions, the investment by such plan (or by such In-House Plan) in the Pooled Fund is subject to the prior written authorization of an Independent Fiduciary representing such plan (or the prior written authorization by the fiduciary of such In-House Plan, as the case may be), following the receipt by

such Independent Fiduciary of such plan (or by the fiduciary of such In-House Plan, as the case may be) of the written information described, above, in Section II(k)(2)(i) and (ii); provided that the Notice and the Grant, described, above, in Section II(k)(2)(i) are provided simultaneously.

(2) For purposes of this Section II(l), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this proposed exemption for each plan proposing to invest in a Pooled Fund be independent of the Merrill Lynch/BlackRock Related Entities shall not apply in the case of an In-House Plan.

(m) Subsequent to the initial authorization by an Independent Fiduciary of a plan (or by a fiduciary of an In-House Plan) to invest in a Pooled Fund that engages in the covered transactions, the Asset Manager will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary of such plan (or the fiduciary of such In-House Plan, as the case may be) requests the Asset Manager to provide.

(n) At least once every three months, and not later than 45 days following the period to which such information relates, the Asset Manager shall furnish:

(1) In the case of each single Client Plan that engages in the covered transactions, the information described, below, in this Section II(n)(3)–(7), to the Independent Fiduciary of each such single Client Plan.

(2) In the case of each Pooled Fund in which a Client Plan (or in which an In-House Plan) invests, the information described, below, in this Section II(n)(3)–(6) and (8), to the Independent Fiduciary of each such Client Plan (and to the fiduciary of each such In-House Plan) invested in such Pooled Fund.

(3) A quarterly report (the Quarterly Report) (which may be provided electronically) which discloses all the Securities purchased pursuant to this proposed exemption during the period to which such report relates on behalf of the Client Plan, In-House Plan, or Pooled Fund to which such report relates, and which discloses the terms of each of the transactions described in such report, including:

(i) The type of Securities (including the rating of any Securities which are debt securities) involved in each transaction;

(ii) The price at which the Securities were purchased in each transaction;

(iii) The first day on which any sale was made during the offering of the Securities;

(iv) The size of the issue of the Securities involved in each transaction;

(v) The number of Securities purchased by the Asset Manager for the Client Plan, In-House Plan, or Pooled Fund to which the transaction relates;

(vi) The identity of the underwriter from whom the Securities were purchased for each transaction;

(vii) The underwriting spread in each transaction (*i.e.*, the difference, between the price at which the underwriter purchases the securities from the issuer and the price at which the securities are sold to the public);

(viii) The price at which any of the Securities purchased during the period to which such report relates were sold; and

(ix) The market value at the end of the period to which such report relates of the Securities purchased during such period and not sold;

(4) The Quarterly Report contains:

(i) A representation that the Asset Manager has received a written certification signed by an officer of each Merrill Lynch/BlackRock Related Broker-Dealer, as described, above, in Section II(g)(2), affirming that, as to each AUT covered by this proposed exemption during the past quarter, such Merrill Lynch/BlackRock Related Broker-Dealer acted in compliance with Section II(e), (f), and (g) of this proposed exemption, and

(ii) a representation that copies of such certifications will be provided upon request;

(5) A disclosure in the Quarterly Report that states that any other reasonably available information regarding a covered transaction that an Independent Fiduciary (or fiduciary of an In-House Plan) requests will be provided, including, but not limited to:

(i) The date on which the Securities were purchased on behalf of the Client Plan (or the In-House Plan) to which the disclosure relates (including Securities purchased by Pooled Funds in which such Client Plan (or such In-House Plan) invests;

(ii) The percentage of the offering purchased on behalf of all Client Plans (and the *pro-rata* percentage purchased on behalf of Client Plans and In-House Plans investing in Pooled Funds); and

(iii) The identity of all members of the underwriting syndicate;

(6) The Quarterly Report discloses any instance during the past quarter where the Asset Manager was precluded for any period of time from selling Securities purchased under this proposed exemption in that quarter because of its relationship to a Merrill Lynch/BlackRock Related Broker-Dealer and the reason for this restriction;

(7) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each single Client Plan that engages in the covered transactions that the authorization to engage in such covered transactions may be terminated, without penalty to such single Client Plan, within five (5) days after the date that the Independent Fiduciary of such single Client Plan informs the person identified in such notification that the authorization to engage in the covered transactions is terminated; and

(8) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each Client Plan (and to the fiduciary of each In-House Plan) that engages in the covered transactions through a Pooled Fund that the investment in such Pooled Fund may be terminated, without penalty to such Client Plan (or such In-House Plan), within such time as may be necessary to effect the withdrawal in an orderly manner that is equitable to all withdrawing plans and to the non-withdrawing plans, after the date that that the Independent Fiduciary of such Client Plan (or the fiduciary of such In-House Plan, as the case may be) informs the person identified in such notification that the investment in such Pooled Fund is terminated.

(o) For purposes of engaging in covered transactions, each Client Plan (and each In-House Plan) shall have total net assets with a value of at least $50 million (the $50 Million Net Asset Requirement). For purposes of engaging in covered transactions involving an Eligible Rule 144A Offering,[6] each Client Plan (and each In-House Plan) shall have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may

[6] SEC Rule 10f–3(a)(4), 17 CFR § 270.10f–3(a)(4), states that the term ''Eligible Rule 144A Offering'' means an offering of securities that meets the following conditions:

(i) The securities are offered or sold in transactions exempt from registration under section 4(2) of the Securities Act of 1933 [15 U.S.C. 77d(d)], rule 144A there under [§ 230.144A of this chapter], or rules 501–508 there under [§§ 230.501–230–508 of this chapter];

(ii) The securities are sold to persons that the seller and any person acting on behalf of the seller reasonably believe to include qualified institutional buyers, as defined in § 230.144A(a)(1) of this chapter; and

(iii) The seller and any person acting on behalf of the seller reasonably believe that the securities are eligible for resale to other qualified institutional buyers pursuant to § 230.144A of this chapter.

be) (the $100 Million Net Asset Requirement).

For purposes of a Pooled Fund engaging in covered transactions, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets with a value of at least $50 million. Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets with a value of at least $50 million, the $50 Million Net Asset Requirement will be met, if 50 percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which has total net assets with a value of at least $50 million. For purposes of a Pooled Fund engaging in covered transactions involving an Eligible Rule 144A Offering, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be). Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or In-House Plan, as the case may be), the $100 Million Net Asset Requirement will be met if 50 percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be), and the Pooled Fund itself qualifies as a QIB, as determined pursuant to SEC Rule 144A (17 CFR 230.144A(a)(F)).

For purposes of the net asset requirements described, above, in this Section II(o), where a group of Client Plans is maintained by a single employer or controlled group of employers, as defined in section 407(d)(7) of the Act, the $50 Million Net Asset Requirement (or in the case of an Eligible Rule 144A Offering, the $100 Million Net Asset Requirement) may be met by aggregating the assets of such Client Plans, if the assets of such Client Plans are pooled for investment purposes in a single master trust.

(p) No more than 20 percent of the assets of a Pooled Fund, at the time of a covered transaction, are comprised of assets of In-House Plans for which the Asset Manager or a Merrill Lynch/BlackRock Related Entity exercises investment discretion.

(q) The Asset Manager and the Merrill Lynch/BlackRock Related Broker-Dealer, as applicable, maintain, or cause to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the persons, described, below, in Section II(r), to determine whether the conditions of this proposed exemption have been met, except that—

(1) No party in interest with respect to a plan which engages in the covered transactions, other than the Asset Manager, and the Merrill Lynch/BlackRock Related Broker-Dealer, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by Section II(r); and

(2) A prohibited transaction shall not be considered to have occurred if, due to circumstances beyond the control of the Asset Manager, or the Merrill Lynch/BlackRock Related Broker-Dealer, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(r)(1) Except as provided, below, in Section II(r)(2), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in Section II(q) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the SEC; or

(ii) Any fiduciary of any plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(iii) Any employer of participants and beneficiaries and any employee organization whose members are covered by a plan that engages in the covered transactions, or any authorized employee or representative of these entities; or

(iv) Any participant or beneficiary of a plan that engages in the covered transactions, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described, above, in Section II(r)(1)(ii)–(iv) shall be authorized to examine trade secrets of the Asset Manager, or the Merrill Lynch/BlackRock Related Broker-Dealer, or commercial or financial information which is privileged or confidential; and

(3) Should the Asset Manager, or the Merrill Lynch/BlackRock Related Broker-Dealer refuse to disclose information on the basis that such information is exempt from disclosure, pursuant to Section II(r)(2), above, the Asset Manager shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Section III—Definitions

(a) The term, ''the Applicants,'' means BlackRock Inc. and Merrill Lynch & Co, Inc.

(b) The term, ''Merrill Lynch/BlackRock Related Broker-Dealer,'' means any broker-dealer that is a Merrill Lynch/BlackRock Related Entity that meets the requirements of this proposed exemption. Such Merrill Lynch/BlackRock Related Broker-Dealer may participate in an underwriting or selling syndicate as a manager or member. The term, ''manager,'' means any member of an underwriting or selling syndicate who, either alone or together with other members of the syndicate, is authorized to act on behalf of the members of the syndicate in connection with the sale and distribution of the Securities, as defined, below, in Section III(k), being offered or who receives compensation from the members of the syndicate for its services as a manager of the syndicate.

(c) The term, ''Merrill Lynch/BlackRock Related Entity(s)'' includes all entities listed in this Section III(c)(i) and (ii): (i) Merrill Lynch and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with Merrill Lynch, and (ii) BlackRock and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with, BlackRock. For purposes of this proposed exemption, the definition of a Merrill Lynch/BlackRock Related Entity shall include any entity that satisfies such definition in the future.

(d) The term, ''BlackRock Related Entity'' or ''BlackRock Related Entities,'' means BlackRock and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with BlackRock.

(e) The term, ''Merrill Lynch Related Entity'' or ''Merrill Lynch Related Entities,'' means Merrill Lynch and any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with Merrill Lynch.

(f) The term, ''Asset Manager,'' means a BlackRock Related Entity, as defined, above, in Section III(d). For purposes of this proposed exemption, the Asset Manager must be registered with the

Securities and Exchange Commission as an investment advisor, have total client assets under management in excess of $5 billion, have shareholders' or partners' equity in excess of $1 million, and must satisfy the definition of a ''qualified professional asset manager'' (QPAM), as that term is defined in Part V(a) of PTE 84–14, 49 FR 9494 (Mar. 13, 1984), as amended, 70 FR 49305 (Aug. 23, 2005). Furthermore, the requirement that the Asset Manager must have total client asset under its management and control in excess of $5 billion, as of the last day of it most recent fiscal year and shareholders' or partners' equity in excess of $1 million applies whether such Asset Manager, qualifies as a QPAM, pursuant to Part V(a)(1), (a)(2), (a)(3) or (a)(4) of PTE 84–14.

(g) The term, ''control,'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(h) The term, ''Client Plan(s),'' means an employee benefit plan or employee benefit plans that are subject to the Act and/or the Code, and for which plan(s) an Asset Manager exercises discretionary authority or discretionary control respecting management or disposition of some or all of the assets of such plan(s), but excludes In-House Plans, as defined, below, in Section III(o).

(i) The term, ''Pooled Fund(s),'' means a common or collective trust fund(s) or a pooled investment fund(s): (i) In which employee benefit plan(s) subject to the Act and/or Code invest, (ii) which is maintained by an Asset Manager, and (iii) for which such Asset Manager exercises discretionary authority or discretionary control respecting the management or disposition of the assets of such fund(s).

(j)(1) The term, ''Independent Fiduciary,'' means a fiduciary of a plan who is unrelated to, and independent of any Merrill Lynch/BlackRock Related Entity. For purposes of this proposed exemption, a fiduciary of a plan will be deemed to be unrelated to, and independent of any Merrill Lynch/BlackRock Related Entity, if such fiduciary represents that neither such fiduciary, nor any individual responsible for the decision to authorize or terminate authorization for the transactions described, above, in Section I of this proposed exemption, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of any Merrill Lynch/BlackRock Related Entity, and represents that such fiduciary shall advise the Asset Manager within a reasonable period of time after any change in such facts occur.

(2) Notwithstanding anything to the contrary in this Section III(j), a fiduciary of a plan is not independent:

(i) If such fiduciary, directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with any Merrill Lynch/BlackRock Related Entity;

(ii) If such fiduciary directly or indirectly receives any compensation or other consideration from any Merrill Lynch/BlackRock Related Entity for his or her own personal account in connection with any transaction described in this proposed exemption;

(iii) If any officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the Asset Manager responsible for the transactions described, above, in Section I of this proposed exemption, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the sponsor of a plan or of the fiduciary responsible for the decision to authorize or terminate authorization for the transactions described, above, in Section I. However, if such individual is a director of the sponsor of a plan or of the responsible fiduciary, and if he or she abstains from participation in: (A) the choice of such plan's investment manager/adviser; and (B) the decision to authorize or terminate authorization for transactions described, above, in Section I, then Section III(j)(2)(iii) shall not apply.

(3) The term, ''officer,'' means a president, any vice president in charge of a principal business unit, division, or function (such as sales, administration, or finance), or any other officer who performs a policy-making function for a Merrill Lynch/BlackRock Related Entity.

(k) The term, ''Securities,'' shall have the same meaning as defined in section 2(36) of the Investment Company Act of 1940 (the 1940 Act), as amended (15 U.S.C. 80a–2(36)(1996)). For purposes of this proposed exemption, mortgage-backed or other asset-backed securities rated by one of the Rating Organizations, as defined, below, in Section III(n), will be treated as debt securities.

(l) The term, ''Eligible Rule 144A Offering,'' shall have the same meaning as defined in SEC Rule 10f–3(a)(4) (17 CFR 270. 10f–3(a)(4)) under the 1940 Act.

(m) The term, ''qualified institutional buyer,'' or the term, ''QIB,'' shall have the same meaning as defined in SEC Rule 144A (17 CFR 230.144A(a)(1)) under the 1933 Act.

(n) The term, ''Rating Organizations,'' means Standard & Poor's Rating Services, Moody's Investors Service, Inc., Fitch Ratings Inc., Dominion Bond Ratings Service Limited, and Dominion Bond Rating Service, Inc., or any successors thereto.

(o) The term, ''In-House Plan(s),'' means an employee benefit plan(s) that is subject to the Act and/or the Code, and that is sponsored by: (i) A Merrill Lynch Related Entity, as defined, above, in Section III(e), or (ii) a BlackRock Related Entity, as defined, above, in Section III(d), for their respective employees.

The availability of this proposed exemption is subject to the express condition that the material facts and representations contained in the application for exemption are true and complete and accurately describe all material terms of the transactions. In the case of continuing transactions, if any of the material facts or representations described in the applications change, the exemption will cease to apply as of the date of such change. In the event of any such change, an application for a new exemption must be made to the Department.

Effective Date: If granted, this proposed exemption will be effective as of the date the Grant is published in the **Federal Register**.

Summary of Facts and Representations

1. BlackRock, based in New York, NY, is a publicly-traded investment management firm. BlackRock, through its SEC-registered investment advisor subsidiaries, currently manages assets for institutional and individual investors worldwide through a variety of equity, fixed income, cash management, and alternative investment products. As of December 31, 2006, BlackRock, through its advisor subsidiaries, had approximately $1.125 trillion in assets under management. Furthermore, BlackRock's asset managers satisfy the definition of the term, Asset Manager, as set forth in Section III(f) of this proposed exemption.

Merrill Lynch is a holding company that, through its subsidiaries, provides broker-dealer, investment banking, financing, wealth management, advisory, insurance, lending, and related products and services on a global basis. Merrill Lynch is a ''Consolidated Supervised Entity'' and is subject to group-wide supervision by the SEC.

Merrill Lynch, Pierce, Fenner & Smith Incorporated (MLPF&S) is the principal wholly-owned subsidiary of Merrill Lynch. MLPF&S is a Delaware

corporation registered with and regulated by the SEC as a broker-dealer, and is a member of the New York Stock Exchange, and the National Association of Securities Dealers, Inc. MLPF&S is also regulated by the Municipal Securities Rulemaking Board (with respect to municipal securities activities) and the Commodity Futures Trading Commission and the National Futures Association (with respect to the activities of MLPF&S as a futures commission merchant). MLPF&S is a broker and/or dealer in the purchase and sale of corporate equity and debt securities, mutual funds, money market instruments, government securities, high yield bonds, municipal securities, financial futures contracts, and options. As an investment banking firm, MLPF&S provides corporate, institutional, and government clients with a wide variety of financial services including underwriting the sale of securities to the public, structured and derivative financing, private placements, mortgage and lease financing, and financial advisory services, including advice on mergers and acquisitions. MLPF&S also acts as a prime broker for hedge funds. MLPF&S further operates mutual fund advisory programs, in which plans governed by the Act or section 4975 of the Code can receive investment advice in connection with their purchase of shares of mutual funds.

2. On September 29, 2006, Merrill Lynch combined its asset management business with BlackRock (the Merger). The resulting entity retained the BlackRock name and continues to trade on the New York Stock Exchange under the symbol, ''BLK''. Prior to the Merger, PNC Financial Services Group, Inc. (PNC) owned approximately 70.6 percent (70.6%) of BlackRock. As a result of the Merger, Merrill Lynch now owns a 50.3 percent (50.3%) economic interest and an approximate 45 percent (45%) voting interest in BlackRock, and PNC's ownership interest has been reduced to approximately 34 percent (34%) of BlackRock. The remaining interest in BlackRock is owned by the public and by BlackRock employees.

Merrill Lynch and PNC each have two seats on the Board of Directors of BlackRock, as a result of the Merger. The remaining seats on the Board of Directors, which include a majority of the total board seats, are held by independent directors. The Applicants represent that the Merrill Lynch and PNC board members are, except in limited circumstances, required to cast their votes in the same manner as the independent directors.

3. It is represented that the BlackRock Related Entities and the Merrill Lynch Related Entities to which the proposed exemption applies are regulated by federal government agencies such as the SEC, as well as state government agencies and industry self-regulatory organizations (*e.g.*, the New York Stock Exchange and the National Association of Securities Dealers).

4. The Applicants request an individual administrative exemption that would permit the purchase of securities, including Rule 144A Securities, by an Asset Manager acting on behalf of Client Plans, from underwriting and selling syndicates in which a Merrill Lynch/BlackRock Related Broker-Dealer is a member or a manager, where such purchase would be made by such Asset Manager for such plans from any person other than the Merrill Lynch/BlackRock Related Entities, and such Merrill Lynch/BlackRock Related Broker-Dealer will receive no selling concessions in connection with the securities sold to such plans.

5. The Applicants represent that, prior to the effective date of the Merger, and because BlackRock and Merrill Lynch did not have ownership interests in each other, asset management affiliates of BlackRock routinely purchased, on behalf of plans, securities (including Rule 144A Securities) from underwriting or selling syndicates where a broker-dealer affiliated with Merrill Lynch was a member or manager. Since BlackRock and Merrill Lynch did not have any ownership interest in each other, these purchases could be consummated without relying on Part III of Prohibited Transaction Exemption 75–1 (PTE 75–1, Part III) or on any individual administrative exemption. In addition, prior to the effective date of the Merger, the asset management affiliates of Merrill Lynch could purchase on behalf of plans, subject to the Act, securities in underwritings or selling syndicates where a broker-dealer affiliated with Merrill Lynch was a member in accordance with PTE 75–1, Part III.

6. The Applicants represent that since the effective date of the Merger, BlackRock has had a general policy with respect to Client Plans not to purchase securities, including Rule 144A Securities, from underwriting or selling syndicates with respect to which a Merrill Lynch/BlackRock Related Broker-Dealer is a member or manager out of concern that such purchases may give rise to prohibited transactions under the Act. Notwithstanding the sizable equity stakes in BlackRock, it is not clear that Merrill Lynch or any subsidiaries of Merrill Lynch will be considered ''affiliates'' of BlackRock. Among the reasons for the lack of clarity include the stockholder agreements between BlackRock and PNC and BlackRock and Merrill Lynch, each of which severely restricts the ability of Merrill Lynch and PNC, individually or in combination, to control the activities of BlackRock. For example, as noted above, Merrill Lynch and PNC board members are generally required to cast their votes in the same manner as the BlackRock independent directors. In addition, Merrill Lynch has agreed to cap its ownership in BlackRock such that it is not permitted to hold greater than 45 percent (45%) of the voting shares of BlackRock. PNC has a similar cap. Therefore, an argument can be made that neither Merrill Lynch nor PNC are or will be in a position to ''control'' BlackRock. Nevertheless, when an Asset Manager is a fiduciary with investment discretion with respect to a Client Plan, and such Asset Manager is deciding whether to purchase securities in an underwriting or selling syndicate in which a Merrill Lynch/BlackRock Related Broker-Dealer is a manager or member, it might be argued that the ownership interest of Merrill Lynch in BlackRock could affect such Asset Manager's best judgment as a fiduciary, raising issues under Section 406(b) of the Act. Accordingly, the Applicants seek the requested relief to cover Merrill Lynch/BlackRock Related Broker-Dealers. The Applicants represent that the failure to provide the requested relief will result in Client Plans being unfairly precluded from participating in a significant amount of investment opportunities.

7. Regardless of whether a fiduciary or its affiliate is a manager or merely a member of an underwriting or selling syndicate, the requested exemption modeled on PTE 75–1, Part III would not provide relief for the purchase of unregistered securities. This includes Rule 144A Securities resold to QIBs. Rule 144A is commonly utilized in connection with sales of securities issued by foreign issuers to U.S. investors that are QIBs. Notwithstanding the unregistered nature of such shares, syndicates selling Rule 144A Securities are the functional equivalent of those selling registered securities.

8. The Applicants represent that Merrill Lynch/BlackRock Related Broker-Dealers regularly serve as managers of underwriting or selling syndicates for registered securities, and as managers or members of underwriting or selling syndicates for Rule 144A Securities. Accordingly, Asset Managers are currently refraining

from purchasing on behalf of Client Plans securities where a Merrill Lynch/BlackRock Related Broker-Dealer is the manager of the underwriting or selling syndicate, including Rule 144A Securities sold in such offerings, resulting in such Client Plans being unable to participate in significant investment opportunities.

9. It is represented that many plans have expanded investment portfolios in recent years to include securities issued by foreign entities. As a result, the exemption provided in PTE 75–1, Part III is often unavailable for purchases of domestic and foreign securities that may otherwise constitute appropriate plan investments.

10. The Applicants represent that Asset Managers make their respective investment decisions on behalf of, or render investment advice to, Client Plans pursuant to the governing document of the particular Client Plan or pooled fund and the investment guidelines and objectives set forth in the management or advisory agreement. Because the Client Plans are covered by Title I of the Act, such investment decisions are subject to the fiduciary responsibility provisions of the Act.

11. The Applicants state, therefore, that the decision to invest in a particular offering is made on the basis of price, value, and the investment criteria of a Client Plan, not on whether the securities are currently being sold through an underwriting or selling syndicate. The Applicants further state that, because an Asset Manager's compensation for its services is generally based upon assets under management, such Asset Manager has little incentive to purchase securities in an offering in which a Merrill Lynch/BlackRock Related Broker-Dealer is an underwriter unless such a purchase is in the interests of Client Plans. If the assets under management do not perform well, the Asset Manager will receive less compensation and could lose clients, costs which far outweigh any gains from the purchase of underwritten securities. The Applicants point out that under the terms of the proposed exemption, a Merrill Lynch/BlackRock Related Broker-Dealer may receive no selling concessions, direct or indirect, that are attributable to the amount of securities purchased by the Asset Manager on behalf of Client Plans.

12. The Applicants state that the Asset Managers generally purchase securities in large blocks because the same investments will be made across several accounts. If there is a new offering of an equity or fixed income security that an Asset Manager wishes to purchase, it may be able to purchase the security through the offering syndicate at a lower price than it would pay in the open market, without transaction costs and with reduced market impact if it is buying a relatively large quantity. This is because a large purchase in the open market can cause an increase in the market price and, consequently, in the cost of the securities. Purchasing from an offering syndicate can thus reduce the costs to Client Plans.

13. The Applicants point out that absent this proposed exemption, if a Merrill Lynch/BlackRock Related Broker-Dealer is a manager of a syndicate that is underwriting an offering of securities, the Asset Managers will be foreclosed from purchasing any securities on behalf of Client Plans from that underwriting syndicate. In this regard, an Asset Manager would have to purchase the same securities in the secondary market. In such a circumstance, the Client Plans may incur greater costs both because the market price is often higher than the offering price, and because there are transaction and market impact costs. In turn, this will cause the Asset Manager to forego other investment opportunities because the purchase price of the underwritten security in the secondary market exceeds the price that the Asset Manager would have paid to the selling syndicate.

Registered Securities Offerings

14. The Applicants represent that Merrill Lynch/BlackRock Related Broker-Dealers currently manage and participate in firm commitment underwriting syndicates for registered offerings of both equity and debt securities. While equity and debt underwritings may operate differently with regard to the actual sales process, the basic structures are the same. In a firm commitment underwriting, the underwriting syndicate purchases the securities from the issuer and then resells the securities to investors.

15. The Applicants represent that while, as a legal matter, a selling syndicate assumes the risk that the underwritten securities might not be fully sold, as a practical matter, this risk is reduced in marketed deals, through ''building a book'' (*i.e.*, taking indications of interest from potential purchasers) prior to pricing the securities. Accordingly, there is generally no incentive for the underwriters to use their discretionary accounts (or the discretionary accounts of their affiliates) to buy up the securities as a way to avoid underwriting obligations.

16. It is represented that each selling syndicate has one or more lead managers, who are the principal contact between the syndicate and the issuer and who are responsible for organizing and coordinating the syndicate. The syndicate may also have co-managers, who generally assist in distributing the underwritten securities. While equity syndicates may include additional underwriters that are not managers, more recently, membership in many debt syndicates has been limited to lead and co-managers.

17. It is represented that if more than one underwriter is involved in a selling syndicate, the lead manager and the underwriters enter into an ''Agreement among Underwriters'' in the form designated by one of the lead managers selected by the issuer. Most lead managers have a standing form of agreement. This master agreement is then commonly supplemented for the particular deal by sending an ''invitation wire'' or ''terms telex'' that sets forth particular terms to the other underwriters.

18. The arrangement between the syndicate and the issuer of the underwritten securities is embodied in an underwriting agreement, which is signed on behalf of the underwriters by one or more of the managers. In a firm commitment underwriting, the underwriting agreement provides, subject to certain closing conditions, that the underwriters are obligated to purchase all of the underwritten securities from the issuer in accordance with their respective commitments, if any securities are not purchased. This obligation is met by using the proceeds received from investors purchasing securities in the offering, although there is a risk that the underwriters will have to pay for a portion of the securities in the event that not all of the securities are sold or an investor defaults on its obligation.

19. The Applicants represent that, generally, it is unlikely that in marketed deals all offered securities will not be sold. In marketed deals, the underwriting agreement is not executed until after the underwriters have obtained sufficient indications of interest to purchase the securities from a sufficient number of investors to assure that all the securities being offered will be acquired by investors. Once the underwriting agreement is executed, the underwriters promptly begin contacting the investors to confirm the sales, at first by oral communication and then by written confirmation. Sales may be finalized within hours and sometimes minutes, but in any event prior to the opening of

the market for trading the next day. In registered transactions, the underwriters have a strong interest in completing the sales as soon as possible because, until they ''break syndicate,'' they cannot recommence normal trading activity, which includes buying and selling the securities for their customers or own account.

20. The Applicants represent that the process of ''building a book'' or soliciting indications of interest occurs in a registered equity offering, after a registration statement is filed with the SEC. While it is under review by the SEC staff, representatives of the issuer of the securities and the selling syndicate managers conduct meetings with potential investors, who learn about the company and the underwritten securities. Potential investors also receive a preliminary prospectus. The underwriters cannot make any firm sales until the registration statement is declared effective by the SEC. Prior to the effective date, while the investors cannot become legally obligated to make a purchase, such investors indicate whether they have an interest in buying, and the lead managers compile a ''book'' of investors who are willing to ''circle'' a particular portion of the issue. Although investors cannot be legally bound to buy the securities until the registration statement is effective, investors generally follow through on their indications of interest.

21. Assuming that the marketing efforts have produced sufficient indications of interest, the Applicants represent that the issuer of the securities, after consultation with the lead manager, will set the price of the securities upon being declared effective by the SEC. After the registration statement has been declared effective by the SEC and the underwriting agreement is executed, the underwriters contact those investors that have indicated an interest in purchasing securities in the offering to execute the sales. The Applicants represent that offerings are often oversubscribed, and many have an over-allotment option that the underwriters can exercise to acquire additional shares from the issuer. Where an offering is oversubscribed, the underwriters decide how to allocate the securities among the potential purchasers. However, if the offering is an initial public offering of an equity security, then the underwriters may not sell the securities to (among others) any person that is a broker-dealer, an associated person of a broker-dealer, a portfolio manager, or an owner of a broker-dealer. Additionally, underwriters may not withhold for their own account any initial public offering of an equity security.

22. The Applicants represent that debt offerings and certain equity offerings may be ''negotiated'' offerings, ''competitive bid'' offerings, or ''bought deals.'' ''Negotiated'' offerings are conducted in the same manner as marketed equity offerings with regard to when the underwriting agreement is executed and how the securities are offered. ''Competitive bid'' offerings, in which the issuer determines the price for the securities through competitive bidding rather than negotiating the price with the underwriting syndicate, are often performed under ''shelf'' registration statements pursuant to the SEC's Rule 415 under the 1933 Act (Rule 415) (17 CFR 230.415).[7]

23. In a competitive bid offering, prospective lead underwriters will bid against one another to purchase debt securities, based upon their determinations of the degree of investor interest in the securities. Depending on the level of investor interest and the size of the offering, a bidding lead underwriter may bring in co-managers to assist in the sales process. Most of the securities are frequently sold within hours, or sometimes even less than an hour, after the securities are made available for purchase.

24. It is represented that because of market forces and the requirements of Rule 415, the competitive bid process is generally, though not exclusively, available only to issuers who have been subject to the reporting requirements of the Securities Exchange Act of 1934 (the 1934 Act) for at least one (1) year.

25. Occasionally, underwriters ''buy'' the entire deal off of a ''shelf registration'' or in a Rule 144A offering before obtaining indications of interest. These ''bought'' deals involve issuers whose securities enjoy a deep and liquid secondary market, such that an underwriter has confidence without pre-marketing that it can identify purchasers for the securities.

Information Barriers

26. Prior applicants for similar relief have represented that there are internal policies in place that restrict contact and the flow of information between investment management personnel and non-investment management personnel in the same or affiliated financial service firms. The Applicants represent that, notwithstanding the concerns raised herein pertaining to the level of ownership in BlackRock by Merrill Lynch, the firms are independent businesses, each with policies restricting the distribution of proprietary and other non-public information, and each subject to restrictions on disclosure under the U.S. securities laws. Further, each has a fiduciary obligation not to share proprietary and non-public information outside the firm. Merrill Lynch and BlackRock also represent that they do not share information with each other which is not generally available to the public that may affect the market price of securities.

27. Prior applicants for substantially similar relief have further represented that their business separation policies and procedures are also structured to restrict the flow of any information to or from the Asset Manager that could limit its flexibility in managing client assets, and of information obtained or developed by the Asset Manager that could be used by other parts of the organization, to the detriment of the Asset Manager's clients. Because BlackRock and Merrill Lynch are independent businesses, no such policies are required.[8]

28. The Applicants represent that major clients of Merrill Lynch/BlackRock Related Broker-Dealers include investment management firms that are competitors of the Asset Manager. Similarly, an Asset Manager deals on a regular basis with broker-dealers that compete with Merrill Lynch/BlackRock Related Broker-Dealers. If special consideration was shown to a Merrill Lynch/BlackRock Related Broker-Dealer, such conduct would likely have an adverse effect on the relationships of the Asset Manager with firms that compete with such Merrill Lynch/BlackRock Related Broker-Dealer. Each of the prior applicants for similar relief have represented that a goal of its business separation policies is to avoid any possible perception of improper flows of information in order to prevent any adverse impact on client and business relationships. Because BlackRock and Merrill Lynch are independent businesses, it is represented that no such policies are required.

Underwriting Compensation

29. The Applicants represent that the underwriters are compensated through

[7] The Applicants maintain that Rule 415 permits an issuer to sell debt as well as equity securities under an effective registration statement previously filed with the SEC by filing a post-effective amendment or supplemental prospectus.

[8] The Applicants represent that no BlackRock Related Entity is currently in the business of underwriting or placing securities for third parties. In the event a BlackRock Related Entity engages in such activities, the Applicants represent that appropriate business separation policies and procedures would be instituted.

the ''spread,'' or difference, between the price at which the underwriters purchase the securities from the issuer and the price at which the securities are sold to the public. The spread is divided into three components.

30. The first component includes the management fee, which generally represents an agreed upon percentage of the overall spread and is allocated among the lead manager and co-managers. Where there is more than one managing underwriter, the way the management fee will be allocated among the managers is generally agreed upon between the managers and the issuer prior to soliciting indications of interest. Thus, the allocation of the management fee is not reflective of the amount of securities that a particular manager sells in an offering.

31. The second component is the underwriting fee, which represents compensation to the underwriters (including the non-managers, if any) for the risks they assume in connection with the offering and for the use of their capital. This component of the spread is also used to cover the expenses of the underwriting that are not otherwise reimbursed by the issuer of the securities.

32. The first and second components of the ''spread'' are received without regard to how the underwritten securities are allocated for sales purposes or to whom the securities are sold. The third component of the spread is the selling concession, which generally constitutes 60 percent (60%) or more of the spread. The selling concession compensates the underwriters for their actual selling efforts. The allocation of selling concessions among the underwriters generally follows the allocation of the securities for sales purposes. However, a buyer of the underwritten securities may designate other broker-dealers (selling group members) to receive the selling concessions arising from the securities they purchase.

33. Securities are allocated for sales purposes into two categories. The first and larger category is the ''institutional pot,'' which is the pot of securities from which sales are made to institutional investors. Selling concessions for securities sold from the institutional pot are generally designated by the purchaser to go to particular underwriters or other broker-dealers. If securities are sold from the institutional pot, the selling syndicate managers sometimes receive a portion of the selling concessions, referred to as a ''fixed designation'' or an ''auto pot split'' attributable to securities sold in this category, without regard to who sold the securities or to whom they were sold. For securities covered by this proposed exemption, however, a Merrill Lynch/BlackRock Related Broker-Dealer may not receive, either directly or indirectly, any compensation or consideration that is attributable to the fixed designation generated by purchases of securities by an Asset Manager on behalf of its Client Plans.

34. The second category of allocated securities is ''private client'' or ''retail,'' which are the securities retained by the underwriters for sale to their customers. The underwriters receive the selling concessions from their respective retail retention allocations. Securities may be shifted between the two categories based upon whether either category is oversold or undersold during the course of the offering.

35. The Applicants represent that the inability of a Merrill Lynch/BlackRock Related Broker-Dealer to receive any selling concessions, or any compensation attributable to the fixed designations generated by purchases of securities by an Asset Manager on behalf of Client Plans, removes the primary economic incentive for an Asset Manager to make purchases that are not in the interests of such Client Plans from offerings for which a Merrill Lynch/BlackRock Related Broker-Dealer is an underwriter.

Rule 144A Securities

36. The Applicants represent that a number of the offerings of Rule 144A Securities in which a Merrill Lynch/BlackRock Related Broker-Dealer participates represent good investment opportunities for the Asset Manager's Client Plans. Particularly with respect to foreign securities, a Rule 144A offering may provide the least expensive and most accessible means for obtaining these securities. However, as discussed above, PTE 75–1, Part III, does not cover Rule 144A Securities. Therefore, absent an exemption, the Asset Manager is foreclosed from purchasing such securities for its Client Plans in offerings in which a Merrill Lynch/BlackRock Related Broker-Dealer participates.

37. The Applicants state that Rule 144A acts as a ''safe harbor'' exemption from the registration provisions of the 1933 Act for re-sales of certain types of securities to QIBs. QIBs include several types of institutional entities, such as employee benefit plans and commingled trust funds holding assets of such plans, which own and invest on a discretionary basis at least $100 million in securities of unaffiliated issuers.

38. Any securities may be sold pursuant to Rule 144A except for those of the same class or similar to a class that is publicly traded in the United States, or certain types of investment company securities. This limitation is designed to prevent side-by-side public and private markets developing for the same class of securities and is the reason that Rule 144A transactions are generally limited to debt securities.

39. Buyers of Rule 144A Securities must be able to obtain, upon request, basic information concerning the business of the issuer and the issuer's financial statements, much of the same information as would be furnished if the offering were registered. This condition does not apply, however, to an issuer filing reports with the SEC under the 1934 Act, for which reports are publicly available. The condition also does not apply to a ''foreign private issuer'' for whom reports are furnished to the SEC under Rule 12g3–2(b) of the 1934 Act (17 CFR 240.12g3–2(b)), or to issuers who are foreign governments or political subdivisions thereof and are eligible to use Schedule B under the 1933 Act (which describes the information and documents required to be contained in a registration statement filed by such issuers).

40. Sales under Rule 144A, like sales in a registered offering, remain subject to the protections of the anti-fraud rules of federal and state securities laws. These rules include Section 10(b) of the 1934 Act and Rule l0b–5 thereunder (17 CFR 240.10b–5) and Section 17(a) of the 1933 Act (15 U.S.C. 77a). Through these and other provisions, the SEC may use its full range of enforcement powers to exercise its regulatory authority over the market for Rule 144A Securities, in the event that it detects improper practices.

41. The Applicants represent that this potential liability for fraud provides a considerable incentive to the issuer of the securities and the members of the selling syndicate to insure that the information contained in a Rule 144A offering memorandum is complete and accurate in all material respects. Among other things, the lead manager typically obtains an opinion from a law firm, commonly referred to as a ''10b–5'' opinion, stating that the law firm has no reason to believe that the offering memorandum contains any untrue statement of material fact or omits to state a material fact necessary in order to make sure the statements made, in light of the circumstances under which they were made, are not misleading.

42. The Applicants represent that Rule 144A offerings generally are structured in the same manner as underwritten registered offerings. They may be ''negotiated'' offerings, ''competitive bid'' offerings or ''ought deals.'' One difference is that a Rule

144A offering uses an offering memorandum rather than a prospectus that is filed with the SEC. The marketing process is substantially similar, except that the selling efforts are limited to contacting QIBs and there are no general solicitations for buyers (*e.g.*, no general advertising). In addition, contracts for sale may be entered into with investors and securities may be priced before a selling agreement is executed (and this is typically the case with respect to sales of asset-backed securities). Further, generally, there are no non-manager members in a Rule 144A selling syndicate. The Applicants nonetheless request that the proposed exemption extend to authorization for situations where a Merrill Lynch/BlackRock Related Broker-Dealer acts as manager or as a member.

43. The proposed exemption is administratively feasible. In this regard, compliance with the terms and conditions of the proposed exemption will be verifiable and subject to audit.

44. The Applicants represent that the proposed exemption is in the interest of participants and beneficiaries of Client Plans that engage in the covered transactions. In this regard, it is represented that the proposed exemption will greatly increase the investment opportunities and will reduce administrative costs for Client Plans.

Further, the Applicants represent that the proposed exemption is protective of the rights of participants and beneficiaries of affected Client Plans. In this regard, the notification provisions and other requirements in the proposed exemption are similar to the conditions set forth in other exemptions published by the Department in similar circumstances.

45. In summary, it is represented that the proposed transactions meet the statutory criteria for an exemption under Section 408(a) of the Act and Section 4975(c)(2) of the Code because: (a) The Client Plans will gain access to desirable investment opportunities; (b) in each offering, an Asset Manager will purchase the securities for its Client Plans from an underwriter or broker-dealer other than a Merrill Lynch/BlackRock Related Entity; (c) conditions of the proposed exemption will restrict the types of securities that may be purchased, the types of underwriting or selling syndicates and issuers involved, and the price and timing of the purchases; (d) the amount of securities that an Asset Manager may purchase on behalf of Client Plans will be subject to percentage limitations; (e) a Merrill Lynch/BlackRock Related Broker-Dealer will not be permitted to receive, either directly, indirectly or through designation, any selling concession with respect to the securities sold to an Asset Manager on behalf of an account of a Client Plan; (f) prior to any purchase of securities, an Asset Manager will make the required disclosures to an Independent Fiduciary of each Client Plan and obtain authorization in accordance with the procedures in the proposed exemption; (g) an Asset Manager will provide regular reporting to an Independent Fiduciary of each Client Plan with respect to all securities purchased pursuant to the proposed exemption, if granted; (h) each Client Plan will be subject to net asset requirements, with certain exceptions for Pooled Funds; and (i) an Asset Manager must have total assets under management in excess of $5 billion and shareholders' or partners' equity in excess of $1 million, in addition to qualifying as a QPAM, pursuant to Part V(a) of PTE 84–14.

FOR FURTHER INFORMATION CONTACT: Angelena C. LeBlanc of the Department, telephone (202) 693–8540. (This is not a toll-free number).

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 30th day of August, 2007.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E7–17676 Filed 9–7–07; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Employment and Training Administration

[TA–W–61,744]

Risdon International, Danbury, CT; Notice of Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, as amended, an investigation was initiated on June 25, 2007 in response to a worker petition filed by the Connecticut Department of Labor on behalf of workers at Risdon International, Danbury, Connecticut.

The petitioning group of workers is covered by an active certification (TA–W–61,785A) which expires on August 28, 2009. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 28th day of August 2007.

Linda G. Poole,

Certifying Officer, Division of Trade Adjustment Assistance.

[FR Doc. E7–17745 Filed 9–7–07; 8:45 am]

BILLING CODE 4510–FN–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–064)]

NASA Advisory Council; Science Committee; Heliophysics Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: The National Aeronautics and Space Administration (NASA) announces a meeting of the Heliophysics Subcommittee of the NASA Advisory Council (NAC). This Subcommittee reports to the Science Committee of the NAC. The Meeting will be held for the purpose of soliciting from the scientific community and other persons scientific and technical information relevant to program planning.

DATES: Tuesday, October 9, 2007, 8:30 a.m. to 5 p.m. and Wednesday, October 10, 2007, 8:30 a.m. to 5 p.m. Eastern Daylight Time.

ADDRESSES: NASA Headquarters, Room 9H40, 300 E. Street, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Ms. Marian Norris, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–4452, fax (202) 358–4118, or *mnorris@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Heliophysics Division Overview of Program Status.
—SMD Strategy for Mission Cost Containment.
—NASA and the American Competitiveness Initiative (ACI).
—NAC Lunar Science Recommendations.
—Preparations for Next Heliophysics Science Roadmap.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Attendees will be requested to sign a register and to comply with NASA security requirements, including the presentation of a valid picture ID, before receiving an access badge. Foreign nationals attending this meeting will be required to provide the following information no less than 5 working days prior to the meeting: full name; gender; 9-digit social security number; Greencard information (resident alien number and expiration date); date, country and city of birth; citizenship; visa information (number, type, expiration date); passport information (number, country of issue, expiration date); employer/affiliation information (name of institution, address, country, telephone, fax, type of business conducted); and title/position, field of research, and e-mail address of attendee. To expedite admittance, attendees with U.S. citizenship can provide identifying information 3 working days in advance by contacting Marian Norris via e-mail at *mnorris@nasa.gov* or by telephone at (202) 358–4452.

Dated: August 30, 2007.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E7–17731 Filed 9–7–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (07–063)]

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 Advisory Board.

DATES: Thursday, October 4, 2007, 9 a.m. to 5 p.m. and Friday, October 5, 2007, 9 a.m. to 1 p.m. Eastern Daylight Time.

ADDRESS: Doubletree Hotel, Washington DC, 1515 Rhode Island Avenue NW., District of Columbia, USA, 20005.

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 President's 2004 U.S. Space-Based Positioning, Navigation and Timing Policy, and Global Positioning System (GPS) Modernization.
- Exploring Opportunities for Making the Global Positioning and Timing Grid more Robust Through Infrastructure Technologies and Applications.
- Examining Emerging Technical and Market Trends for PNT Services in U.S. and International Arena.
- Optimizing and Prioritizing Current and Planned GPS Capabilities and Services.
- Updating GPS Standard Positioning Service Performance Standards.
- Maintaining U.S. GPS Technological Leadership and Competitiveness.
- Initiating U.S. Strategic Engagement and Communications on PNT Services.
- Addressing Future Challenges to PNT Service Providers and Users.

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: August 30, 2007.

P. Diane Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. E7–17726 Filed 9–7–07; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

NARA Draft Plan for Digitizing Archival Materials for Public Access; Request for Comment and Public Meeting

AGENCY: National Archives and Records Administration (NARA).

ACTION: Request for comment; notice of public meeting.

SUMMARY: NARA is seeking public comment on its draft *Plan for Digitizing Archival Materials for Public Access,* 2007–2016. The document is available at *http://www.archives.gov/comment/digitizing-plan.html* or from the contact listed in this notice.

DATES: Comments should be received by November 9, 2007.

A public meeting on the draft Plan will be held on October 4 at 10:30 a.m. See the **ADDRESSES** paragraph for additional information.

ADDRESSES: Comments should be submitted by e-mail to *Vision@nara.gov* or faxed to 301–837–0319.

The public meeting will be held at the Jefferson Room in the National Archives Building, Washington, DC 20408, on October 4, 2007 at 10:30 a.m. Please enter through the Constitution Avenue

Special Events entrance (Constitution Ave., NW., between 7th and 9th Streets, NW.). Reservations are not required but space may be limited.

FOR FURTHER INFORMATION CONTACT: Nancy Allard at 301–837–1477 or Carla Patterson at 301–837–0993, or at *Vision@nara.gov.*

Dated: August 31, 2007.

Nancy Allard,

NARA Federal Register Liaison.

[FR Doc. E7–17729 Filed 9–7–07; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L., 92–463, as amended), the National Science Foundation announces the following meeting:

NAME: Advisory Committee for Biological Sciences (1110).

DATE AND TIME: October 18, 2007—8 a.m.—5 p.m. October 19, 2007—8 a.m.—12 p.m.

PLACE: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 375.

TYPE OF MEETING: Open.

CONTACT PERSON: Dr. Charles Liarakos, Senior Advisor, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230 Tel No.: (703) 292–8400.

MINUTES: May be obtained from the contact person listed above.

PURPOSE OF MEETING: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda

- Undergraduate Education in the Biological Sciences and Biology Education Presentations.
- COV Reports.
- Discussion.

Dated: September 5, 2007.

Susanne Bolton,

Committee Management Officer.

[FR Doc. E7–17725 Filed 9–7–07; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–26]

Notice of Availability of Supplement to the Environmental Assessment and Final Finding of No Significant Impact for the Diablo Canyon Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of Availability and Finding of No Significant Impact.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is issuing a supplement to the Environmental Assessment (EA) for the Diablo Canyon Independent Spent Fuel Storage Installation (ISFSI) and a final Finding of No Significant Impact (FONSI). NRC issued the EA and initial FONSI for this action on October 24, 2003, and subsequently issued a license for the Diablo Canyon ISFSI to the Pacific Gas and Electric Company (PG&E), on March 22, 2004. The license authorizes PG&E to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials resulting from the operation of the Diablo Canyon Power Plant in an ISFSI at the site for a term of 20 years. NRC is issuing this supplement to the EA and final FONSI in response to the June 2, 2006, decision by the United States Court of Appeals for the Ninth Circuit, *San Luis Obispo Mothers for Peace* v. *NRC,* 449 F.3d 1016 (9th Cir. 2006). This supplement to the EA addresses the environmental impacts from potential terrorist acts against the Diablo Canyon ISFSI.

FOR FURTHER INFORMATION CONTACT: James R. Hall, Senior Project Manager, Licensing Branch, Division of Spent Fuel Storage and Transportation, Mail Stop EBB–3D–02M, U.S. Nuclear Regulatory Commission, Washington, DC, 20555–0001. Telephone: (301) 492–3319; e-mail: *jrh@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Introduction

On December 21, 2001, PG&E submitted an application to NRC, requesting a site-specific license to build and operate an ISFSI, to be located on the site of the Diablo Canyon Power Plant, in San Luis Obispo County, California. In accordance with the National Environmental Policy Act (NEPA), the NRC staff issued an EA for this action on October 24, 2003, in conformance with NRC requirements specified in 10 CFR 51.21 and 51.30, and the associated guidance in NRC report NUREG–1748, ''Environmental Review Guidance for Licensing Actions Associated with NMSS Programs.'' Based on the EA, NRC also issued a FONSI for this action on October 24, 2003, in accordance with 10 CFR 51.31 and 51.32.

On March 22, 2004, the NRC staff issued Materials License No. SNM–2511 to PG&E, pursuant to 10 CFR Part 72, authorizing PG&E to receive, possess, store, and transfer spent nuclear fuel and associated radioactive materials resulting from the operation of the Diablo Canyon Power Plant in an ISFSI at the site for a term of 20 years. PG&E has begun construction of the Diablo Canyon ISFSI and currently plans to start transferring spent fuel to the ISFSI in mid-2008.

After NRC's issuance of the license for the Diablo Canyon ISFSI, the San Luis Obispo Mothers for Peace and other parties filed suit in the United States Court of Appeals for the Ninth Circuit, asking that NRC be required to consider terrorist acts in its environmental review associated with this licensing action. In its decision of June 2, 2006, *San Luis Obispo Mothers for Peace* v. *NRC,* 449 F.3d 1016 (9th Cir. 2006), the Ninth Circuit held that NRC could not categorically refuse to consider the consequences of a terrorist attack under NEPA and remanded the case to NRC.

In response to the Ninth Circuit decision, the Commission issued a Memorandum and Order on February 26, 2007, directing the NRC staff to prepare a revised EA, addressing the likelihood of a terrorist attack at the Diablo Canyon ISFSI site and the potential consequences of such an attack. On May 29, 2007, the NRC staff issued a preliminary supplement to the EA and draft FONSI to address the environmental impacts from potential terrorist acts against the Diablo Canyon ISFSI. On May 31, 2007, NRC published a notice of availability in the **Federal Register** (72 FR 30398), providing opportunity for public comment on the preliminary supplement to the EA and draft FONSI and establishing July 2, 2007, as the deadline to submit comments. Approximately 32 individual comment documents (i.e., letters, facsimiles, and e-mails) were received by the NRC. Of the 32 comment documents received, 12 were nearly identical letters, and many others contained the same or similar comments. As a result, the NRC staff grouped similar or related comments together and developed 17 general comment areas. NRC's summary of the comments received and its responses are provided in an appendix to the final supplemental EA.

The October 24, 2003, EA and FONSI, the license and supporting documents, and the preliminary supplement to the EA and draft FONSI are available on NRC's Web site at: *http://www.nrc.gov/waste.html,* by selecting ''Diablo Canyon ISFSI,'' in the Quick Links box.

II. Summary of Final Supplement to the EA for the Diablo Canyon ISFSI

In the supplement to the EA, the NRC staff has considered the potential radiological impacts of terrorist acts on the Diablo Canyon ISFSI. NRC has established requirements and has initiated several actions designed to provide high assurance that a terrorist attack would not lead to a significant radiological event at an ISFSI. These include: (1) NRC's continual evaluation of the threat environment, in coordination with the intelligence and law enforcement communities, which provides, in part, the basis for the protective measures currently required; (2) the protective measures that are in place to reduce the chance of an attack that leads to a significant release of radiation; (3) the robust design of dry cask storage systems, which provide substantial resistance to penetration; and (4) NRC security assessments of the potential consequences of terrorist attacks against ISFSIs.

The supplement to the EA describes the security measures for ISFSIs and discusses the security assessments performed by NRC, which confirmed that the existing security requirements, imposed by regulations and orders, are adequate to provide high assurance that a terrorist attack on an ISFSI will not lead to significant radiological consequences. Threat scenarios considered in the generic security assessments for ISFSIs included a large aircraft impact similar in magnitude to the attacks of September 11, 2001, and ground assaults using expanded adversary characteristics consistent with the design basis threat for radiological sabotage for nuclear power plants.

The NRC staff compared the assumptions used in its generic ISFSI security assessments to the relevant features of the Diablo Canyon ISFSI. Based on this comparison, the staff determined that the assumptions used in these generic security assessments, regarding the storage cask design, the amount of radioactive material that could be released, and the atmospheric dispersion, were representative, and in some cases, conservative, relative to the actual characteristics for the Diablo Canyon ISFSI. The staff determined that any dose to affected residents nearest to the Diablo Canyon site calculated using site-specific parameters will be much lower than doses calculated using the assumptions made for the generic assessments. Based on these considerations, the dose to the nearest affected resident, from even the most severe plausible threat scenarios (the ground assault and aircraft impact scenarios discussed above) would likely be well below 5 rem. In many scenarios, the hypothetical dose to an individual in the affected population could be substantially less than 5 rem, or none at all.

In the supplement (based also on the initial EA), the NRC staff concludes that the construction, operation, and decommissioning of the Diablo Canyon ISFSI, even when potential terrorist attacks on the facility are considered, will not result in a significant effect on the human environment. NRC security requirements, imposed through regulations and orders, and implemented through the licensee's security plans, in combination with the design requirements for dry cask storage systems, provide adequate protection against successful terrorist attacks on ISFSIs. Therefore, a terrorist attack that would result in a significant release of radiation affecting the public is not reasonably expected to occur.

III. Final Finding of No Significant Impact

The NRC staff has prepared a supplement to the EA related to the construction and operation of the Diablo Canyon ISFSI, in accordance with the requirements of 10 CFR Part 51. As set forth in the supplement to the EA, NRC has considered the potential for terrorist attacks on the facility, and has determined that the storage of spent nuclear fuel at the Diablo Canyon ISFSI will not have a significant effect on the quality of the human environment, based on the facility design features and the mitigative security measures incorporated as part of the NRC licensing action and in response to NRC security orders. These design features and mitigative security measures will provide high assurance that substantial environmental impacts will be avoided and thereby reduced to a non-significant risk level. On the basis of the initial EA and this supplement, NRC has concluded that there are no significant environmental impacts, and the proposed action does not warrant the preparation of an Environmental Impact Statement. Therefore, in accordance with 10 CFR 51.31, NRC has determined that issuance of a final FONSI is appropriate.

V. Further Information

Documents related to this action, including the May 29, 2007, preliminary supplement to the EA and draft FONSI; the August 30, 2007, EA supplement and final FONSI; the October 24, 2003, EA; and the Diablo Canyon ISFSI license and supporting documentation, are available electronically, at NRC's Electronic Reading Room, at: *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the supplement to the EA and draft FONSI is ML071280256, and for the EA supplement and final FONSI, the accession number is ML072400511. The ADAMS accession number for the October 24, 2003, EA is ML032970337, and for the ISFSI license and related documents, the accession number is ML040780107. If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact NRC's Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*.

These documents may also be viewed electronically on the public computers located at NRC's PDR, O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents, for a fee.

Dated at Rockville, Maryland this 30th day of August, 2007.

For the Nuclear Regulatory Commission.

Robert A. Nelson,

Chief, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. E7–17738 Filed 9–7–07; 8:45 am]

BILLING CODE 7590–01–P

OVERSEAS PRIVATE INVESTMENT CORPORATION

September 20, 2007 Board of Directors Meeting

Time and Date: Thursday, September 20, 2007, 10 a.m. (Open Portion).

Place: Offices of the Corporation, Twelfth Floor Board Room, 1100 New York Avenue, NW., Washington, DC.

Status: Meeting OPEN to the Public from 10 a.m. to 10:15 a.m. Closed portion will commence at 10:15 a.m. (approx.).

Matters To Be Considered:

1. President's Report.
2. Tribute—David A. Sampson.

3. Approval of July 12, 2007 Minutes (Open Portion).

Further matters to be considered: (Closed to the Public 10:15 a.m.)

1. Report from Audit Committee.
2. Proposed FY 2009 Budget.
3. Finance Project—Sub-Saharan Africa.
4. Finance Project—Sub-Saharan Africa.
5. Finance Project—Sub-Saharan Africa.
6. Finance Project—Jordan, Lebanon, Egypt, West Bank and Certain OPIC-Eligible MENA Countries.
7. Finance Project—Mexico.
8. Finance Project—Pakistan.
9. Approval of July 12, 2007 Minutes (Closed Portion).
10. Pending Major Projects.
11. Reports.

For Further Information Contact: Information on the meeting may be obtained from Connie M. Downs at (202) 336–8438.

Dated: September 6, 2007.

Connie M. Downs,

Corporate Secretary, Overseas Private Investment Corporation.

[FR Doc. 07–4424 Filed 9–6–07; 9:46 am]

BILLING CODE 3210–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56327; File No. SR–FINRA–2007–006]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Proposed Rule Change Relating to Historic TRACE Data

August 28, 2007.

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 August 9, 2007, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) 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 FINRA. 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.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to: (1) Adopt a FINRA policy providing for public access to historic TRACE data (''Historic TRACE Data''); and (2) amend NASD Rule 7030 to: (i) Define Historic TRACE Data in proposed NASD Rule 7030(c)(3)(D); (ii) establish fees for Historic TRACE Data in proposed NASD Rule 7030(d); (iii) make conforming changes to the fee chart in NASD Rule 7030 and the definitions of ''Non-Professional,'' ''Tax-Exempt Organization,'' and ''Real-Time'' in, respectively, paragraphs (A), (B), and (C) of NASD Rule 7030(c)(3); and (iv) renumber current NASD Rule 7030(c)(4) as NASD Rule 7030(e).[3] The text of the proposed rule change is available at FINRA, on FINRA's Web site at *http://www.finra.org*, and in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA 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. FINRA 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

FINRA is proposing to adopt a FINRA policy providing for public access to Historic TRACE Data and to amend NASD Rule 7030 to establish fees to offset the costs of developing and maintaining the new Historic TRACE Data database and providing such data to vendors, members, and other users. The proposed amendments to NASD Rule 7030 would: (i) Define Historic TRACE Data in proposed NASD Rule 7030(c)(3)(D); (ii) establish fees for Historic TRACE Data in proposed NASD Rule 7030(d); (iii) make conforming changes to the fee chart in NASD Rule 7030 and the definitions of ''Non-Professional,'' ''Tax-Exempt Organization,'' and ''Real-Time'' in, respectively, paragraphs (A), (B), and (C) of NASD Rule 7030(c)(3); and (iv) renumber current NASD Rule 7030(c)(4) as NASD Rule 7030(e).

Historic TRACE Data

TRACE data is the first complete database of transaction-level pricing information ever compiled on the over-the-counter (''OTC'') U.S. corporate bond market and, as such, may be of widespread interest to corporate bond market participants, other financial intermediaries, market observers, academicians, and financial regulators. To date, FINRA has made available publicly aggregated statistics from both disseminated and non-disseminated TRACE transaction information, but has done so in a manner to protect transaction-level non-disseminated data from being ascertained. Since TRACE began, many people have expressed interest in reviewing historic TRACE transaction-level data. FINRA believes it is important to provide access to this data, particularly for research purposes.[4] The transaction data that will be provided include all transactions reported to TRACE since July 1, 2002, except Rule 144A transactions defined below.[5]

Historic TRACE Data will generally consist of basic transaction information such as the price, the date and time of execution, and the yield. It will include information on transactions not previously available,[6] and contain

[3] NASD Rule 7030 contains all TRACE fees; previously, such fees were set forth in NASD Rule 7010(k).

[4] Before submitting the proposal, FINRA (then known as NASD) sought member input about whether FINRA should release standard TRACE transaction-level data to the public; if access should be limited in any way; if the data should be redacted as to certain types of information; and if FINRA should provide access to any portion of the transaction-level historic data that previously had only been reported, but not disseminated. *See* NASD *Notice to Members* 06–32 (June 2006). The sole commenter was The Bond Market Association (''TBMA'') (now known as the Securities Industry Financial Markets Association or ''SIFMA''). *See* comment letter from Mary C.M. Kuan, Vice President and Assistant General Counsel, TBMA, to Barbara Z. Sweeney, Office of the Corporate Secretary, NASD, dated August 14, 2006. TBMA supported obtaining access to the transaction-level historic data, provided that member participant identifiers (''MPIDs'') were deleted from the data and the data was sufficiently aged to eliminate any possible use of such data to identify current trading, positioning, or strategies of other market participants.

[5] In TRACE, Rule 144A transactions refers to transactions in TRACE-eligible securities ''issued pursuant to Section 4(2) of the Securities Act of 1933 (''Securities Act'') and purchased and sold pursuant to Rule 144A of the Securities Act of 1933.'' NASD Rule 6210(a).

[6] When TRACE began, daily transaction-level dissemination of information occurred in phases to gauge the relationship between transparent transaction information and its impact on liquidity. As a result, all public transactions in TRACE-

Continued

additional information per transaction than is disseminated in real-time TRACE market data, such as actual trade volumes, rather than capped volume amounts that are disseminated as part of the real-time TRACE data. Historic TRACE Data will be updated quarterly and provided using quarterly files or reports. As referenced above, in response to concerns,[7] currently FINRA intends to release only aged data in the Historic TRACE Data; transaction data will not be included in Historic TRACE Data quarterly files unless it has aged at least 18 months. Generally, FINRA will refer to the date the transaction was executed to determine whether the data should be released.

It should be noted that FINRA may change the elements of Historic TRACE Data to respond to user needs, improve the usefulness of the data, and foster the extensive use of such data in research on the OTC corporate bond markets.[8] Prior to its availability, the elements of Historic TRACE Data will be published by FINRA in a FINRA Notice or other equivalent publication. If any of the data elements change during a quarter, shortly before Historic TRACE Data becomes available, FINRA will publish a list providing more specific information about the types of information that will be included.

FINRA will provide access to Historic TRACE Data to persons such as members, other financial intermediaries, data vendors, and Tax-Exempt Organizations via existing data transmission facilities and vendors, and, on an ad hoc basis, to individuals upon request.

Fees

FINRA proposes to amend FINRA Rule 7030 to adopt Historic TRACE Data fees in new paragraph (d) to offset the costs of developing and maintaining the new Historic TRACE Data database and providing such data to vendors, members, and other users. The proposed rule change includes reduced fees for qualifying Tax-Exempt Organizations to increase access to Historic TRACE Data. In addition, FINRA proposes to amend other provisions of NASD Rule 7030 to define Historic TRACE Data, make conforming changes to definitions and other provisions, and renumber subparagraph (c)(4) of NASD Rule 7030 as new subparagraph (e).

Definition

TRACE fees are set forth in NASD Rule 7030. FINRA proposes to define Historic TRACE Data for purposes of NASD Rule 7030 to mean historic transaction-level data with elements to be determined by FINRA in its discretion.

Professionals

Historic TRACE Data that are updated and provided on a quarterly basis to Professionals, including vendors, via existing data transmission facilities, will be subject to the following fees under proposed NASD Rule 7030(d)(1)(A): (1) An initial fee of $2,000, which includes development and set-up costs, and 2002 Historic TRACE Data; (2) a fee of $2,000 per calendar year of data, for 2003 Historic TRACE Data and each subsequent year of such data; and (3) a Bulk Re-Distribution Fee of $1 per CUSIP per calendar year (or part thereof) of Historic TRACE Data per each recipient of re-distributed data, with a maximum fee of $1,000 per calendar year (or part thereof) of data per each recipient of re-distributed data. The 2002 Historic TRACE Data received as part of the Data Set-Up Fee, and all the subsequent years of TRACE Historic Data that may be purchased under the Data Fee would be enabled for internal use and internal and/or external desktop display distribution. Re-distribution, however, would be permitted only if the subscriber paid the third fee, the Bulk Re-Distribution Fee.

Tax-Exempt Organizations

The reduced fee schedule for qualifying Tax-Exempt Organizations under proposed NASD Rule 7030(d)(1)(B) is: (1) A single, Data Set-Up Fee of $1,000, which includes development and set-up costs, and 2002 Historic TRACE Data; and (2) a Data and Bulk Re-Distribution fee of $500 per calendar year of data, for 2003 Historic TRACE Data and each subsequent year of such data. The 2002 Historic TRACE Data received as part of the Data Set-Up Fee, and all the subsequent years of TRACE Historic Data that may be purchased under the Data and Bulk Re-Distribution Fee would be enabled for internal use and internal and/or external desktop display distribution. In addition, the right to re-distribute the data in bulk is included in the Data and Bulk Re-Distribution Fee. However, to qualify for the Tax-Exempt Organization fees, an organization must be a Tax-Exempt Organization as defined in NASD Rule 7030(c)(3)(B), and, if it re-distributes Historic TRACE Data, must do so at no charge and limit re-distribution to Non-Professionals, as defined in NASD Rule 7030(c)(3)(A), or other Tax-Exempt Organizations that agree to be subject to the same data re-distribution protocols.

Non-Professionals

Occasionally, FINRA may receive single, *ad hoc* requests from natural persons for Historic TRACE Data for purely personal, non-commercial use. FINRA will provide Historic TRACE Data to such natural persons who are Non-Professionals as defined in NASD Rule 7030(c)(3)(A) if the person represents he or she is a Non-Professional, which includes representations that he or she will receive and use the Historic TRACE Data solely for his or her personal, non-commercial use and is not engaged in, and has no intention to engage in, any re-distribution of all or any portion of such data. FINRA may impose a fee under NASD Rule 7030(e) to respond to such *ad hoc* requests. If FINRA charges a fee, it would do so to cover the administrative and operational costs of responding to such a request.

Other Changes to NASD Rule 7030

FINRA proposes to make additional, minor conforming changes to NASD Rule 7030. First, FINRA proposes to amend the definitions of ''Non-Professional,'' ''Tax-Exempt Organization,'' and ''Real-Time'' in, respectively, paragraphs (A), (B), and (C) of NASD Rule 7030(c)(3). Currently, the terms are defined solely for purposes of NASD Rule 7030(c). The proposed changes would define the terms to apply to NASD Rule 7030 generally.

Also, FINRA proposes additional minor, conforming changes to ''Tax-Exempt Organization'' in NASD Rule 7030(c)(3)(B). Currently, the definition includes the condition: ''and obtains and uses Real-Time TRACE transaction data solely for redistribution to Non-Professionals, as defined for purposes of NASD Rule 7030(c), at no charge.'' FINRA proposes to retain the requirement, which is used to qualify a Tax-Exempt Organization for a reduced fee (and any similar condition or qualification regarding redistribution of data, such as the new requirement in proposed NASD Rule 7030(d)(1)(B)(i) and (ii)), but to delete the condition from the defined term, Tax-Exempt Organization, in NASD Rule 7030(c)(3)(B) and insert it (or any similar condition or qualification) in the specific fee provision to which the condition (or any similar condition or

eligible securities were not subject to dissemination until February 7, 2005.

[7] *See* note 4, *supra*.

[8] For example, data users, such as member firms or researchers, may determine that a particular data field reported but not provided in Historic TRACE Data is necessary or would be particularly helpful to analyze certain trends in the corporate bond market. Or, FINRA may amend NASD Rule 6230, the TRACE reporting requirements, and need or desire to make corresponding adjustments in Historic TRACE Data.

qualification) applies. The same condition—limiting the Tax-Exempt Organization to re-distributing data solely to Non-Professionals at no charge—is restated in the NASD Rule 7030 fee chart, in the Market Data Fee, ''Vendor Real-Time Data Feed—$400/month for Real-Time TRACE transaction data for qualifying Tax-Exempt Organizations.''

Finally, FINRA proposes to renumber current NASD Rule 7030(c)(4) as NASD Rule 7030(e) so that the provision will apply to NASD Rule 7030 generally.

FINRA will announce the effective date of the proposed rule change in a *Regulatory Notice* to be published no later than 60 days following Commission approval. The effective date will be no later than 90 days following publication of the *Regulatory Notice* announcing Commission approval.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[9] which requires, among other things, that FINRA rules must be 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, and Section 15A(b)(5) of the Act,[10] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that proposal to establish a policy to provide public access to Historic TRACE Data is consistent with Section 15A(b)(6) because such a policy will permit FINRA to provide freely Historic TRACE Data to anyone interested in analyzing and developing a greater understanding of the OTC U.S. corporate bond market, which is a market of tremendous breadth and size with impact on the U.S. and world economy, and the results of such understanding will protect investors and further the public interest, and with Section 15A(b)(5) because the proposed fees for developing and maintaining Historic TRACE Data are reasonable and equitably allocated among all users of Historic TRACE Data to facilitate widespread access to and many uses of such data.

[9] 15 U.S.C. 78o–3(b)(6).

[10] 15 U.S.C. 78o–3(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The proposed rule change was published for comment in NASD *Notice to Members* 06–32 (June 2006). One comment was received in response to the *Notice*. As discussed previously, the commenter generally favored the proposal to provide access to transaction-level Historic TRACE Data, but suggested that data should not be provided until it aged at least 18 months. The commenter desired that the data be sufficiently ''aged'' to address industry concerns that persons might be able to identify current trading, positioning, or strategies of competitors or other market participants if more current transaction-level data were released. In addition, the commenter suggested that members' MPIDs should not be included. FINRA has considered the comments and has incorporated such suggestions as described above.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

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–FINRA–2007–006 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–FINRA–2007–006. 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 FINRA. 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–FINRA–2007–006 and should be submitted on or before October 1, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17683 Filed 9–7–07; 8:45 am]

BILLING CODE 8010–01–P

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56346; File No. SR–ISE–2007–78]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Fee Changes

August 31, 2007.

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 August 27, 2007, 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 prepared by ISE. ISE filed the proposal pursuant to Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) [4] thereunder, as establishing or changing a due, fee, or other charges applicable to a member, which renders the proposed rule change 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

ISE is proposing to amend its Schedule of Fees to establish fees for transaction in options on one Premium Product.[5] The text of the proposed rule change is available at ISE, *http://www.iseoptions.com*, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[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'' are defined in the Schedule of Fees as the products enumerated therein.

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 following Premium Product: iShares MSCI Emerging Markets Fund (''EEM'').[6] The Exchange represents that EEM is eligible for options trading because it constitutes ''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 EEM.[7] 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 [8] 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.[9] 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. Further, since options on EEM are multiply-listed, the Payment for Order Flow fee shall apply to this product. The Exchange believes the proposed rule change will further the Exchange's goal of introducing new products to the marketplace that are competitively priced.

[6] iShares® is a registered trademark of Barclays Global Investors, N.A. (''BGI''), a majority owned subsidiary of Barclays Bank PLC. ''MSCI Emerging Markets Index'' is a service mark of Morgan Stanley Capital International (''MSCI'') and has been licensed for use for certain purposes by BGI. All other trademarks and service marks are the property of their respective owners. EEM is not sponsored, endorsed, issued, sold or promoted by MSCI. BGI and MSCI 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 EEM; 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 EEM or with making disclosures concerning options on EEM under any applicable federal or state laws, rules or regulations. BGI and MSCI do not sponsor, endorse, or promote such activity by ISE, and are not affiliated in any manner with ISE.

[7] 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 Orders (as defined in ISE Rule 1900). *See* Securities Exchange Act Release No. 56128 (July 24, 2007), 72 FR 42161 (August 1, 2007) (SR–ISE–2007–55).

[8] ''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.

[9] The execution fee is currently between $0.21 and $0.12 per contract side, depending on the Exchange Average Daily Volume, and the comparison fee is currently $0.03 per contract side.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that 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.

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 interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change has become effective upon filing with the Commission pursuant to Section 19(b)(3)(A)(ii) of the Act [12] and Rule 19b–4(f)(2) [13] thereunder, because it establishes or changes a due, fee, or other charge applicable only to a member.

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

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A)(ii).

[13] 17 CFR 240.19b–4(f)(2).

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–ISE–2007–78 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2007–78. 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 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–2007–78 and should be submitted on or before October 1, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17721 Filed 9–7–07; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–56348; File No. SR–NASDAQ–2007–073]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify the Halt Cross Process

August 31, 2007.

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 August 20, 2007, The NASDAQ Stock Market LLC (''Nasdaq''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been substantially prepared by Nasdaq. On August 31, 2007, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6) thereunder,[5] which rendered the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Nasdaq proposes to make minor modifications to the manner in which Nasdaq resumes trading of securities that are the subject of the Nasdaq Halt Cross as well as the potential duration of the Display Only Period, as set forth in Nasdaq Rule 4120. The text of the proposed rule change is available at Nasdaq, the Commission's Public Reference Room, and *http://www.complinet.com/nasdaq*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq 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. Nasdaq 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

Nasdaq's Halt Cross has been in production for one year and in that time it has proven to be a highly successful process to begin trading Nasdaq-listed securities. With the transition of Nasdaq-listed trading to a single platform in October 2006, Nasdaq implemented a similar process for resuming trading in halted stocks referred to as the Halt cross, providing greater transparency as issues begin trading again after a halt.

NASDAQ has determined that by amending certain rules governing the Halt Cross, NASDAQ can provide more accurate price discovery to market participants. First, Nasdaq is proposing to extend the period of time those securities may be subject to Display Only status prior to the operation of the Halt Cross. Currently, after the initial 15-minute Display Only period, Nasdaq may extend the Display Only period for up to three additional 5-minute intervals, for a total of 15 additional minutes. Nasdaq believes that the price discovery capability of the Halt Cross will be improved by permitting additional Display Only periods. Therefore, Nasdaq is proposing to authorize up to three additional 5-minute extensions of the Display Only Period for a total of 30 minutes. This proposal will not alter how Nasdaq extends the Display Only period or how Nasdaq operates the Halt Cross.

Second, Nasdaq is proposing to change the existing mechanism for extending the duration of the ''Display Only'' period that occurs prior to the Halt Cross during which time members enter quotes and orders they expect to participate in the Halt Cross. The current rule states that the Display Only period for Halt Crosses will be extended by 5 minutes in the event that the Current Reference Price moves more than 10% between the imbalance dissemination 15 seconds prior to the cross and the cross time. Nasdaq has reviewed data from Halt Crosses and found that the 10% threshold is wider than necessary. For example, in reviewing a series of 13 IPOs from the beginning of 2007, 1 moved 4% in the last 15 seconds, 1 moved 1.5%, while 11 did not move at all. Therefore Nasdaq

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Amendment No. 1 replaced the original filing in its entirety.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6).

proposes to tighten the systematic trigger to 5% from the current 10%.

Finally, Nasdaq also proposes to change the provision of the rule dealing with the re-opening timeline for the Halt Cross. Currently, the Halt Cross initiates in a ''randomization'' period of between 0 and 15 seconds after the Display Only period. The randomization period was designed to deter market participants from timing their participation in a way that harmed other participants. This provision, however, occasionally results in other markets trading after the issue has re-opened but prior to Nasdaq restarting trading using the Halt Cross. Nasdaq Staff believe that it is potentially disruptive for Nasdaq, as the listing market and venue for the majority of electronic trading, to continue a halt after other market centers have resumed trading and, therefore proposes to eliminate the random period prior to the execution of the Halt Cross.

2. Statutory Basis

Nasdaq believes that 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 it is designed 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 transactions 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 proposal will promote orderly trading with respect to IPOs and re-openings of halted stocks.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

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

The proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[8] and Rule 19b–4(f)(6) thereunder[9] because it: (i) Does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; and (iii) by its terms, does not become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.[10]

A proposed rule change filed under Rule 19b–4(f)(6) normally may not become operative prior to 30 days after the date of the filing.[11] However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.[12] The Exchange has requested that the Commission waive the 30-day operative delay. In support of this request, Nasdaq has represented that the ''randomization'' period of between 0 and 15 seconds prior to the execution of the cross currently provided for in Rule 4120 has led to confusion in the marketplace because it causes Nasdaq, the listing market, to remain in a halted state after other trading venues resume trading. Nasdaq believes that this delay has the potential to promote ''gaming'' behavior by some market participants that is harmful to other market participants and also to investors.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it believes that the proposed modifications to the operation of Nasdaq's Halt Cross should have a positive impact market quality and enhance the orderliness of trading by removing a potential method for gaming the re-opening following the Halt Cross. Accordingly, the Commission designates the proposal to be effective and operative upon filing with the Commission.[13]

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act,[14] the Commission may summarily abrogate the 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, as amended, 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–NASDAQ–2007–073 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–NASDAQ–2007–073. 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

[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] 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 August 31, 2007, the date on which the Exchange submitted Amendment No. 1. *See* 15 U.S.C. 78s(b)(3)(C).

[11] 17 CFR 240.19b–4(f)(6)(iii). In addition, Rule 19b–4(f)(6)(iii) requires the self-regulatory organization to give the Commission notice of its intent to file the proposed rule change, along with a brief description and text of 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. Nasdaq has complied with this requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(3)(A).

available for inspection and copying at the principal office of the Nasdaq. 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–NASDAQ–2007–073 and should be submitted on or before October 1, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–17720 Filed 9–7–07; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new and/or currently approved information collection.

DATES: Submit comments on or before November 9, 2007.

ADDRESSES: Send all comments regarding whether this information collection is necessary for the proper performance of the function of the agency, whether the burden estimates are accurate, and if there are ways to minimize the estimated burden and enhance the quality of the collection, to Gail Hepler, Chief 7a Loan Policy Branch, Office of Financial Assistance, Small Business Administration, 409 3rd Street, SW., Suite 8300, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Gail Hepler, Chief 7a Loan Policy Branch, Office of Financial Assistance, 202–205–7530, *gail.hepler@sba.gov* or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov*.

SUPPLEMENTARY INFORMATION: The SBA has continued to hear from many lenders, particularly rural/small lenders, that despite recent efforts to streamline its loan processes through such initiatives as guaranteed loans. This is supported by the limited number of SBA loans produced by small lenders. As a result, SBA is moving forward to redesign its standard 7(a) loan application form and re-engineer its standard 7(a) loan process for loans of $350,000 or less, which will be processed through a centralized and highly automated and streamlined loan facility. The proposed information collection thus represents the first phase of the redesign of an existing SBA loan form (SBA Form 4 and Form 4–1), initially for loans of $350,000, with the redesign intended to reduce the time and paperwork of lenders and the public to prepare an SBA loan application. This redesign of the SBA loan application process for loans of $350,000 or less will be the first phase of what ultimately will become a tiered loan application process that will require less information for smaller loans but appropriately more information from a borrower or lender as the size and/or complexity of a loan increases.

Title: Application for Community Lender Initiative and Instructions Community Lender Initiative Eligibility Questionnaire.

Description of Respondents: SBA lenders and loan applicants.

Annual Responses: 4,000.

Annual Burden: 24,000.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. E7–17753 Filed 9–7–07; 8:45 am]

BILLING CODE 8025–01–P

UNITED STATES INSTITUTE OF PEACE

Notice of Meeting

Date/Time: Thursday, September 20, 2007, 9:30 a.m.–3:30 p.m.

Location: 1200 17th Street, NW., Suite 200, Washington, DC 20036–3011.

Status: Open Session—Portions may be closed pursuant to Subsection (c) of Section 552(b) of Title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law 98–525.

Agenda: September 20, 2007 Board Meeting; Approval of Minutes of the One Hundred Twenty-Seventh Meeting (June 13–14, 2007) of the Board of Director; Chairman's Report; President's Report; Budget Discussion; Consideration of Grant Recommendations; Other General Issues.

Contact: Tessie F. Higgs, Executive Office, Telephone: (202) 429–3836.

Dated: September 5, 2007.

Patricia P. Thomson,

Executive Vice President, United States Institute of Peace.

[FR Doc. 07–4449 Filed 9–6–07; 3:49 pm]

BILLING CODE 6820–AR–M

[15] 17 CFR 200.30–3(a)(12).

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Federal Register

Vol. 72, No. 174

Monday, September 10, 2007

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Executive orders and proclamations	**741–6000**
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Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**
TTY for the deaf-and-hard-of-hearing	**741–6086**

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FEDERAL REGISTER PAGES AND DATE, SEPTEMBER

50643–50868 4
50869–51158 5
51159–51352 6
51353–51554 7
51555–51696 10

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
8170 51155
8171 51157
8172 51549
8173 51551
8174 51553

Administrative Orders:
Presidential Determinations:
No. 2007-29 of August 27, 2007 51351

4 CFR

81 50643

5 CFR

1630 51353
1640 51353
1653 51353

Proposed Rules:
591 51200

7 CFR

987 51354
1205 51159

Proposed Rules:
59 51378
983 51378
993 51381

12 CFR

585 50644

14 CFR

33 .....50856, 50864
39 .....51161, 51164, 51167
71 .....51358, 51359, 51360, 51361, 51362, 51363
97 .....51169, 51171

Proposed Rules:
33 51314
39 .....50648, 51201, 51384, 51386, 51388
71 .....51203, 51391

15 CFR

730 50869
732 50869
734 50869
736 50869
738 50869
740 50869
742 50869
743 50869
744 50869
745 50869
746 50869
747 50869
748 50869
750 50869
752 50869
754 50869
756 50869
758 50869
760 50869
762 50869
764 50869
766 50869
768 50869
770 50869
772 50869
774 50869

Proposed Rules:
Ch. VII 50912

17 CFR

30 50645

18 CFR

Proposed Rules:
1301 51572

20 CFR

404 51173
405 51173
416 .....50871, 51173

21 CFR

522 .....51364, 51365

26 CFR

Proposed Rules:
1 51009
53 51009
54 51009
301 51009

30 CFR

Proposed Rules:
49 .....51338, 51320
75 51320

33 CFR

117 .....50875, 51179
165 .....50877, 51555, 51557

37 CFR

1 51559

39 CFR

Proposed Rules:
3001 50744
3010 50744
3015 50744
3020 50744

40 CFR

52 .....50879, 51564, 51567
60 .....51365, 51494
72 51494
75 51494
180 51180

Proposed Rules:
49 51204
52 ..... 50650, 51574
60 ..... 51392, 51394
62 50913
63 50716
72 51394
75 51394

41 CFR

300-80 51373

42 CFR

411 51012
424 51012
Proposed Rules:
431 51397
433 51397
440 51397

43 CFR

3000 50882
3100 50882
3150 50882
3200 50882
3500 50882
3580 50882
3600 50882
3730 50882
3810 50882
3830 50882

45 CFR

98 50889
2551 51009

47 CFR

90 51374
Proposed Rules:
73 ..... 51208, 51575

48 CFR

Ch. 1 ..... 51187, 51310
4 51306
12 51306
52 51306
Ch. 2 51187
202 51187
207 51188
212 51189
216 51189
227 51188
234 51189
236 51191
237 ..... 51192, 51193
252 ..... 51187, 51189, 51194
639 51568
652 51568
Proposed Rules:
215 51209
252 51209

49 CFR

209 51194
213 51194
214 51194
215 51194
216 51194
217 51194
218 51194
219 51194
220 51194
221 51194
222 51194
223 51194
224 51194
225 51194
228 51194
229 51194
230 51194
231 51194
232 51194
233 51194
234 51194
235 51194
236 51194
238 51194
239 51194
240 51194
241 51194
244 51194
571 50900
1002 51375
1111 51375
1114 51375
1115 51375
Proposed Rules:
229 50820
232 50820
238 50820
1540 50916
1544 50916
1560 50916

50 CFR

17 51102
32 51534
660 50906
679 ..... 50788, 51570
Proposed Rules:
17 ..... 50918, 50929

REMINDERS

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.

RULES GOING INTO EFFECT SEPTEMBER 10, 2007

AGRICULTURE DEPARTMENT

Agricultural Marketing Service

Dates (domestic) produced or packed in California; published 9-7-07

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Pacific halibut and sablefish; published 8-9-07

COMMERCE DEPARTMENT

Patent and Trademark Office

Patent cases:

Patent Cooperation Treaty; application procedures; published 9-10-07

DEFENSE DEPARTMENT

Engineers Corps

Navigation regulations:

Naval Air Station Key West, FL; danger zone and restricted area; published 8-10-07

ENVIRONMENTAL PROTECTION AGENCY

Air programs:

Ambient air quality standards, national—

Particulate matter; correction; published 6-12-07

Air quality implementation plans; approval and promulgation; various States; air quality planning purposes; designation of areas:

Ohio; correction; published 9-10-07

Pennsylvania; published 8-24-07

FEDERAL COMMUNICATIONS COMMISSION

Radio stations; table of assignments:

Arkansas; published 8-15-07

HOMELAND SECURITY DEPARTMENT

Coast Guard

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

Oahu, Maui, Hawaii, and Kauai, HI; published 8-9-07

SECURITIES AND EXCHANGE COMMISSION

Securities and investment advisers:

Pooled investment vehicles, investor protections; prohibition of fraud by advisors; published 8-9-07

Securities:

Significant deficiency; definition; published 8-9-07

STATE DEPARTMENT

Acquisition regulations:

Information technology systems; security issues; published 9-10-07

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

DG Flugzeugbau GmbH; published 8-21-07

TREASURY DEPARTMENT

Currency and foreign transactions; financial reporting and recordkeeping requirements:

USA PATRIOT Act; implementation—

Anti-money laundering programs; special due diligence programs for foreign accounts; published 8-9-07

COMMENTS DUE NEXT WEEK

AGENCY FOR INTERNATIONAL DEVELOPMENT

Privacy Act; implementation; comments due by 9-18-07; published 7-20-07 [FR 07-03331]

AGRICULTURE DEPARTMENT

Animal and Plant Health Inspection Service

Interstate transportation of animals and animal products (quarantine):

Brucellosis in cattle—

State and area classifications; comments due by 9-21-07; published 7-23-07 [FR E7-14175]

Plant-related quarantine, domestic:

Gypsy moth; comments due by 9-17-07; published 7-17-07 [FR E7-13774]

Oriental fruit fly; comments due by 9-21-07; published 7-23-07 [FR E7-14163]

User fees:

Veterinary diagnostic services; comments due by 9-21-07; published 7-23-07 [FR E7-14162]

AGRICULTURE DEPARTMENT

Grain Inspection, Packers and Stockyards Administration

Ethanol production, differentiating grain inputs and standardized testing of ethanol production co-products; USDA role; comments due by 9-18-07; published 7-20-07 [FR E7-14018]

AGRICULTURE DEPARTMENT

Rural Utilities Service

Program regulations:

Specifications, acceptable materials, and standard contract forms; telecommunications policies; comments due by 9-17-07; published 7-17-07 [FR E7-13795]

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration

Fishery conservation and management:

Alaska; fisheries of Exclusive Economic Zone—

Shallow-water species; comments due by 9-21-07; published 9-11-07 [FR 07-04442]

Northeastern United States fisheries—

Northeast Region Standardized Bycatch Reporting Methodology Omnibus Amendment; implementation; comments due by 9-20-07; published 8-21-07 [FR E7-16238]

DEFENSE DEPARTMENT

Civilian health and medical program of uniformed services (CHAMPUS):

TRICARE program—

Reserve Select; requirements and procedures; comments due by 9-19-07; published 8-20-07 [FR E7-16300]

ENERGY DEPARTMENT

Federal Energy Regulatory Commission

Electric utilities (Federal Power Act):

Bulk-power system; mandatory reliability standards; comments due by 9-19-07; published 8-20-07 [FR E7-16253]

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:

Louisiana; comments due by 9-17-07; published 8-17-07 [FR E7-16171]

Air quality implementation plans; approval and promulgation; various States:

Colorado; comments due by 9-17-07; published 8-17-07 [FR E7-16146]

South Carolina; comments due by 9-21-07; published 8-22-07 [FR E7-16316]

Tennessee; comments due by 9-19-07; published 8-20-07 [FR E7-15781]

Hazardous waste program authorizations:

Louisiana; comments due by 9-17-07; published 8-16-07 [FR 07-04000]

New Mexico; comments due by 9-17-07; published 8-17-07 [FR E7-16243]

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:

Alachlor, etc.; comments due by 9-17-07; published 7-18-07 [FR E7-13830]

Superfund programs:

National oil and hazardous substances contingency plan priorities list; comments due by 9-17-07; published 8-17-07 [FR E7-16062]

FEDERAL COMMUNICATIONS COMMISSION

Practice and procedure:

Regulatory fees (2007 FY); assessment and collection; comments due by 9-17-07; published 8-16-07 [FR E7-15606]

Radio stations; table of assignments:

Montana; comments due by 9-17-07; published 8-15-07 [FR E7-15900]

Television broadcasting:

Digital television transition; consumer education initiative; comments due by 9-17-07; published 8-16-07 [FR E7-16149]

HEALTH AND HUMAN SERVICES DEPARTMENT

Food and Drug Administration

Food additives:

Glycerol ester of tall oil rosin; comments due by 9-21-07; published 8-22-07 [FR E7-16558]

Polydextrose; comments due by 9-20-07; published 8-21-07 [FR E7-16322]

HOMELAND SECURITY DEPARTMENT

Coast Guard

Drawbridge operations:

Connecticut; comments due by 9-20-07; published 8-21-07 [FR E7-16399]

Ports and waterways safety; regulated navigation areas, safety zones, security zones, etc.:

Tinian, Northern Mariana Islands; comments due by 9-17-07; published 8-17-07 [FR E7-16203]

HOMELAND SECURITY DEPARTMENT

Privacy Act; implementation; comments due by 9-21-07; published 8-22-07 [FR E7-16461]

HOMELAND SECURITY DEPARTMENT

U.S. Citizenship and Immigration Services

Immigration:

Aliens—

Permanent Resident Cards (Forms I-551) without expiration dates; replacement application process; comments due by 9-21-07; published 8-22-07 [FR E7-16311]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Acquisition regulations:

Debarment and suspension procedures; comments due by 9-17-07; published 7-17-07 [FR E7-13745]

Fair housing:

International Building Code (2006); accessibility requirements review; comments due by 9-17-07; published 7-18-07 [FR E7-13886]

Public and Indian housing:

Capital Fund or Operating Fund programs; financing activities; comments due by 9-17-07; published 7-18-07 [FR E7-13846]

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:

Critical habitat designations—

Cape Sable seaside sparrow; comments due by 9-17-07; published 8-17-07 [FR 07-04030]

San Bernardino bluegrass and California taraxacum; comments due by 9-21-07; published 8-7-07 [FR 07-03836]

Rio Grande cutthroat trout; comments due by 9-17-07; published 8-16-07 [FR E7-16144]

NUCLEAR REGULATORY COMMISSION

Spent nuclear fuel and high-level radioactive waste; independent storage; licensing requirements:

Approved spent fuel storage casks; list; comments due by 9-17-07; published 8-16-07 [FR E7-16134]

PERSONNEL MANAGEMENT OFFICE

Political activity; Federal employees residing in designated localities:

Fauquier County, VA; comments due by 9-17-07; published 7-19-07 [FR E7-14003]

Retirement:

Retirement Systems Modernization Project; comments due by 9-17-07; published 8-17-07 [FR E7-16256]

SECURITIES AND EXCHANGE COMMISSION

Securities:

Smaller reporting companies; regulatory relief and simplification; comments due by 9-17-07; published 7-19-07 [FR E7-13407]

STATE DEPARTMENT

Freedom of Information Act; implementation:

Search fees; comments due by 9-18-07; published 6-20-07 [FR E7-11944]

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:

Aeromot-Industria Mecanico Metalurgica Ltda.; comments due by 9-20-07; published 8-21-07 [FR E7-16421]

Airbus; comments due by 9-17-07; published 8-16-07 [FR E7-16118]

Aquila Technische Entwicklungen GmbH; comments due by 9-20-07; published 8-21-07 [FR E7-15913]

Boeing; comments due by 9-17-07; published 8-2-07 [FR E7-15025]

Cessna; comments due by 9-17-07; published 7-19-07 [FR E7-13984]

Dassault; comments due by 9-17-07; published 8-16-07 [FR E7-16124]

DG Flugzeugban GmbH; comments due by 9-19-07; published 8-20-07 [FR E7-16302]

DG Flugzeugbau GmbH; comments due by 9-20-07; published 8-21-07 [FR 07-04090]

Empresa Brasileira de Aeronautica S.A.; comments due by 9-17-07; published 8-16-07 [FR E7-16116]

Fokker; comments due by 9-17-07; published 8-16-07 [FR E7-16123]

General Electric Co.; comments due by 9-17-07; published 7-17-07 [FR E7-13835]

Goodrich; comments due by 9-20-07; published 8-6-07 [FR E7-15222]

McDonnell Douglas; comments due by 9-20-07; published 8-6-07 [FR E7-15237]

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle theft prevention standard:

Parts marking requirements; extension to additional vehicles; response to petitions for reconsideration; correction; comments due by 9-17-07; published 8-17-07 [FR E7-16125]

TREASURY DEPARTMENT

Internal Revenue Service

Income taxes:

Qualified contract provisions; public hearing; comments due by 9-17-07; published 6-19-07 [FR E7-11725]

Utility allowance regulations update; public hearing; comments due by 9-17-07; published 6-19-07 [FR E7-11731]

Procedure and administration:

Taxpayers filing timely income tax returns to whom IRS does not provide timely notice stating additional tax liability; suspension provisions; comments due by 9-19-07; published 6-21-07 [FR E7-12082]

Taxpayers who have participated in listed transactions or undisclosed reportable transactions; suspension provisions; cross-reference; comments due by 9-19-07; published 6-21-07 [FR E7-12085]

VETERANS AFFAIRS DEPARTMENT

Medical benefits:

Veterans health administration beneficiary travel expenses; comments due by 9-21-07; published 7-23-07 [FR E7-14069]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 2863/P.L. 110–75

To authorize the Coquille Indian Tribe of the State of Oregon to convey land and interests in land owned by the Tribe. (Aug. 13, 2007; 121 Stat. 724)

H.R. 2952/P.L. 110–76

To authorize the Saginaw Chippewa Tribe of Indians of the State of Michigan to convey land and interests in lands owned by the Tribe. (Aug. 13, 2007; 121 Stat. 725)

H.R. 3006/P.L. 110–77

To improve the use of a grant of a parcel of land to the State of Idaho for use as an agricultural college, and for other purposes. (Aug. 13, 2007; 121 Stat. 726)

S. 375/P.L. 110–78

To waive application of the Indian Self-Determination and Education Assistance Act to a specific parcel of real property transferred by the United

States to 2 Indian tribes in the State of Oregon, and for other purposes. (Aug. 13, 2007; 121 Stat. 727)

S. 975/P.L. 110–79

Granting the consent and approval of the Congress to an interstate forest fire protection compact. (Aug. 13, 2007; 121 Stat. 730)

S. 1716/P.L. 110–80

To amend the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007, to strike a requirement relating to forage producers. (Aug. 13, 2007; 121 Stat. 734)

Last List August 13, 2007

CORRECTION

In the last **List of Public Laws** printed in the *Federal Register* on August 13, 2007, H.R. 2025, Public Law 110-65, and H.R. 2078, Public Law 110-67, were printed incorrectly. They should read as follows:

H.R. 2025/P.L. 110–65
To designate the facility of the United States Postal Service located at 11033 South State Street in Chicago, Illinois, as the "Willye B. White Post Office Building". (Aug. 9, 2007; 121 Stat. 568)

H.R. 2078/P.L. 110–67
To designate the facility of the United States Postal Service located at 14536 State Route 136 in Cherry Fork, Ohio, as the "Staff Sergeant Omer T. 'O.T.' Hawkins Post Office". (Aug. 9, 2007; 121 Stat. 570)

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

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Title	Stock Number	Price	Revision Date
1	(869–062–00001–4)	5.00	[4] Jan. 1, 2007
2	(869–062–00002–2)	5.00	Jan. 1, 2007
3 (2006 Compilation and Parts 100 and 102)	(869–062–00003–1)	35.00	[1] Jan. 1, 2007
4	(869–062–00004–9)	10.00	[5] Jan. 1, 2007
5 Parts:			
1–699	(869–062–00005–7)	60.00	Jan. 1, 2007
700–1199	(869–062–00006–5)	50.00	Jan. 1, 2007
1200–End	(869–062–00007–3)	61.00	Jan. 1, 2007
6	(869–062–00008–1)	10.50	Jan. 1, 2007
7 Parts:			
1–26	(869–062–00009–0)	44.00	Jan. 1, 2007
27–52	(869–062–00010–3)	49.00	Jan. 1, 2007
53–209	(869–062–00011–1)	37.00	Jan. 1, 2007
210–299	(869–062–00012–0)	62.00	Jan. 1, 2007
300–399	(869–062–00013–8)	46.00	Jan. 1, 2007
400–699	(869–062–00014–6)	42.00	Jan. 1, 2007
700–899	(869–062–00015–4)	43.00	Jan. 1, 2007
900–999	(869–062–00016–2)	60.00	Jan. 1, 2007
1000–1199	(869–062–00017–1)	22.00	Jan. 1, 2007
1200–1599	(869–062–00018–9)	61.00	Jan. 1, 2007
1600–1899	(869–062–00019–7)	64.00	Jan. 1, 2007
1900–1939	(869–062–00020–1)	31.00	Jan. 1, 2007
1940–1949	(869–062–00021–9)	50.00	[5] Jan. 1, 2007
1950–1999	(869–062–00022–7)	46.00	Jan. 1, 2007
2000–End	(869–062–00023–5)	50.00	Jan. 1, 2007
8	(869–062–00024–3)	63.00	Jan. 1, 2007
9 Parts:			
1–199	(869–062–00025–1)	61.00	Jan. 1, 2007
200–End	(869–062–00026–0)	58.00	Jan. 1, 2007
10 Parts:			
1–50	(869–062–00027–8)	61.00	Jan. 1, 2007
51–199	(869–062–00028–6)	58.00	Jan. 1, 2007
200–499	(869–062–00029–4)	46.00	Jan. 1, 2007
500–End	(869–066–00030–8)	62.00	Jan. 1, 2007
11	(869–062–00031–6)	41.00	Jan. 1, 2007
12 Parts:			
1–199	(869–062–00032–4)	34.00	Jan. 1, 2007
200–219	(869–062–00033–2)	37.00	Jan. 1, 2007
220–299	(869–062–00034–1)	61.00	Jan. 1, 2007
300–499	(869–062–00035–9)	47.00	Jan. 1, 2007
500–599	(869–062–00036–7)	39.00	Jan. 1, 2007
600–899	(869–062–00037–5)	56.00	Jan. 1, 2007
900–End	(869–062–00038–3)	50.00	Jan. 1, 2007
13	(869–062–00039–1)	55.00	Jan. 1, 2007
14 Parts:			
1–59	(869–062–00040–5)	63.00	Jan. 1, 2007
60–139	(869–062–00041–3)	61.00	Jan. 1, 2007
140–199	(869–062–00042–1)	30.00	Jan. 1, 2007
200–1199	(869–062–00043–0)	50.00	Jan. 1, 2007
1200–End	(869–062–00044–8)	45.00	Jan. 1, 2007
15 Parts:			
0–299	(869–062–00045–6)	40.00	Jan. 1, 2007
300–799	(869–062–00046–4)	60.00	Jan. 1, 2007
800–End	(869–062–00047–2)	42.00	Jan. 1, 2007
16 Parts:			
0–999	(869–062–00048–1)	50.00	Jan. 1, 2007
1000–End	(869–062–00049–9)	60.00	Jan. 1, 2007
17 Parts:			
1–199	(869–062–00051–1)	50.00	Apr. 1, 2007
200–239	(869–062–00052–9)	60.00	Apr. 1, 2007
240–End	(869–062–00053–7)	62.00	Apr. 1, 2007
18 Parts:			
1–399	(869–062–00054–5)	62.00	Apr. 1, 2007
400–End	(869–062–00055–3)	26.00	Apr. 1, 2007
19 Parts:			
1–140	(869–062–00056–1)	61.00	Apr. 1, 2007
141–199	(869–062–00057–0)	58.00	Apr. 1, 2007
200–End	(869–062–00058–8)	31.00	Apr. 1, 2007
20 Parts:			
1–399	(869–062–00059–6)	50.00	Apr. 1, 2007
400–499	(869–062–00060–0)	64.00	Apr. 1, 2007
500–End	(869–062–00061–8)	63.00	Apr. 1, 2007
21 Parts:			
1–99	(869–062–00062–6)	40.00	Apr. 1, 2007
100–169	(869–062–00063–4)	49.00	Apr. 1, 2007
170–199	(869–062–00064–2)	50.00	Apr. 1, 2007
200–299	(869–062–00065–1)	17.00	Apr. 1, 2007
300–499	(869–062–00066–9)	30.00	Apr. 1, 2007
500–599	(869–062–00067–7)	47.00	Apr. 1, 2007
600–799	(869–062–00068–5)	17.00	Apr. 1, 2007
800–1299	(869–062–00069–3)	60.00	Apr. 1, 2007
1300–End	(869–062–00070–7)	25.00	Apr. 1, 2007
22 Parts:			
1–299	(869–062–00071–5)	63.00	Apr. 1, 2007
300–End	(869–062–00072–3)	45.00	Apr. 1, 2007
23	(869–062–00073–7)	45.00	Apr. 1, 2007
24 Parts:			
0–199	(869–062–00074–0)	60.00	Apr. 1, 2007
200–499	(869–062–00075–8)	50.00	Apr. 1, 2007
500–699	(869–062–00076–6)	30.00	Apr. 1, 2007
700–1699	(869–062–00077–4)	61.00	Apr. 1, 2007
1700–End	(869–062–00078–2)	30.00	Apr. 1, 2007
25	(869–062–00079–1)	64.00	Apr. 1, 2007
26 Parts:			
§§ 1.0–1–1.60	(869–062–00080–4)	49.00	Apr. 1, 2007
§§ 1.61–1.169	(869–062–00081–2)	63.00	Apr. 1, 2007
§§ 1.170–1.300	(869–062–00082–1)	60.00	Apr. 1, 2007
§§ 1.301–1.400	(869–062–00083–9)	47.00	Apr. 1, 2007
§§ 1.401–1.440	(869–062–00084–7)	56.00	Apr. 1, 2007
§§ 1.441–1.500	(869–062–00085–5)	58.00	Apr. 1, 2007
§§ 1.501–1.640	(869–062–00086–3)	49.00	Apr. 1, 2007
§§ 1.641–1.850	(869–062–00087–1)	61.00	Apr. 1, 2007
§§ 1.851–1.907	(869–062–00088–0)	61.00	Apr. 1, 2007
§§ 1.908–1.1000	(869–062–00089–8)	60.00	Apr. 1, 2007
§§ 1.1001–1.1400	(869–062–00090–1)	61.00	Apr. 1, 2007
§§ 1.1401–1.1550	(869–062–00091–0)	58.00	Apr. 1, 2007
§§ 1.1551–End	(869–062–00092–8)	50.00	Apr. 1, 2007
2–29	(869–062–00093–6)	60.00	Apr. 1, 2007
30–39	(869–062–00094–4)	41.00	Apr. 1, 2007
40–49	(869–062–00095–2)	28.00	[7] Apr. 1, 2007
50–299	(869–062–00096–1)	42.00	Apr. 1, 2007

Title	Stock Number	Price	Revision Date
300–499	(869–062–00097–9)	61.00	Apr. 1, 2007
500–599	(869–062–00098–7)	12.00	[6] Apr. 1, 2007
600–End	(869–062–00099–5)	17.00	Apr. 1, 2007
27 Parts:			
1–39	(869–062–00100–2)	64.00	Apr. 1, 2007
40–399	(869–062–00101–1)	64.00	Apr. 1, 2007
400–End	(869–062–00102–9)	18.00	Apr. 1, 2007
28 Parts:			
0–42	(869–060–00102–6)	61.00	July 1, 2006
43–End	(869–060–00103–4)	60.00	July 1, 2006
29 Parts:			
0–99	(869–062–00105–3)	50.00	[9] July 1, 2007
*100–499	(869–062–00106–1)	23.00	July 1, 2007
500–899	(869–062–00107–0)	61.00	[9] July 1, 2007
900–1899	(869–062–00108–8)	36.00	July 1, 2007
1900–1910 (§§ 1900 to 1910.999)	(869–062–00109–6)	61.00	July 1, 2007
1910 (§§ 1910.1000 to end)	(869–060–00109–3)	46.00	July 1, 2006
*1911–1925	(869–062–00111–8)	30.00	July 1, 2007
1926	(869–062–00112–6)	50.00	July 1, 2007
1927–End	(869–060–00112–3)	62.00	July 1, 2006
30 Parts:			
1–199	(869–060–00113–1)	57.00	July 1, 2006
200–699	(869–060–00114–0)	50.00	July 1, 2006
700–End	(869–060–00115–8)	58.00	July 1, 2006
31 Parts:			
*0–199	(869–062–00117–7)	41.00	July 1, 2007
200–499	(869–060–00117–4)	46.00	July 1, 2006
500–End	(869–060–00118–2)	62.00	July 1, 2006
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–062–00120–7)	61.00	July 1, 2007
191–399	(869–060–00120–4)	63.00	July 1, 2006
400–629	(869–060–00121–2)	50.00	July 1, 2006
630–699	(869–062–00123–1)	37.00	July 1, 2007
700–799	(869–060–00123–9)	46.00	July 1, 2006
800–End	(869–062–00125–8)	47.00	July 1, 2007
33 Parts:			
1–124	(869–060–00125–5)	57.00	July 1, 2006
125–199	(869–060–00126–3)	61.00	July 1, 2006
200–End	(869–060–00127–1)	57.00	July 1, 2006
34 Parts:			
1–299	(869–060–00128–0)	50.00	July 1, 2006
300–399	(869–060–00129–8)	40.00	July 1, 2006
400–End & 35	(869–060–00130–1)	61.00	[8] July 1, 2006
36 Parts:			
1–199	(869–060–00131–0)	37.00	July 1, 2006
*200–299	(869–062–00133–9)	37.00	July 1, 2007
300–End	(869–060–00133–6)	61.00	July 1, 2006
37	(869–060–00134–4)	58.00	July 1, 2006
38 Parts:			
0–17	(869–062–00136–3)	60.00	July 1, 2007
18–End	(869–060–00136–1)	62.00	July 1, 2006
39	(869–060–00137–9)	42.00	July 1, 2006
40 Parts:			
1–49	(869–060–00138–7)	60.00	July 1, 2006
50–51	(869–060–00139–5)	45.00	July 1, 2006
52 (52.01–52.1018)	(869–060–00140–9)	60.00	July 1, 2006
52 (52.1019–End)	(869–060–00141–7)	61.00	July 1, 2006
53–59	(869–060–00142–5)	31.00	July 1, 2006
*60 (60.1–End)	(869–062–00144–4)	58.00	July 1, 2007
60 (Apps)	(869–060–00144–7)	57.00	July 1, 2006
61–62	(869–060–00145–0)	45.00	July 1, 2006
63 (63.1–63.599)	(869–060–00146–8)	58.00	July 1, 2006
63 (63.600–63.1199)	(869–060–00147–6)	50.00	July 1, 2006
63 (63.1200–63.1439)	(869–060–00148–4)	50.00	July 1, 2006
63 (63.1440–63.6175)	(869–060–00149–2)	32.00	July 1, 2006
63 (63.6580–63.8830)	(869–060–00150–6)	32.00	July 1, 2006
63 (63.8980–End)	(869–060–00151–4)	35.00	July 1, 2006
64–71	(869–060–00152–2)	29.00	July 1, 2006
72–80	(869–060–00153–1)	62.00	July 1, 2006
81–85	(869–060–00154–9)	60.00	July 1, 2006
86 (86.1–86.599–99)	(869–060–00155–7)	58.00	July 1, 2006
86 (86.600–1–End)	(869–060–00156–5)	50.00	July 1, 2006
87–99	(869–060–00157–3)	60.00	July 1, 2006
100–135	(869–060–00158–1)	45.00	July 1, 2006
136–149	(869–060–00159–0)	61.00	July 1, 2006
150–189	(869–060–00160–3)	50.00	July 1, 2006
190–259	(869–062–00162–2)	39.00	[9] July 1, 2007
260–265	(869–060–00162–0)	50.00	July 1, 2006
266–299	(869–060–00163–8)	50.00	July 1, 2006
300–399	(869–060–00164–6)	42.00	July 1, 2006
400–424	(869–062–00166–5)	56.00	[9] July 1, 2007
425–699	(869–060–00166–2)	61.00	July 1, 2006
700–789	(869–060–00167–1)	61.00	July 1, 2006
790–End	(869–060–00168–9)	61.00	July 1, 2006
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–060–00169–7)	24.00	July 1, 2006
101	(869–062–00171–1)	21.00	July 1, 2007
*102–200	(869–062–00172–0)	56.00	July 1, 2007
201–End	(869–060–00172–7)	24.00	July 1, 2006
42 Parts:			
1–399	(869–060–00173–5)	61.00	Oct. 1, 2006
400–413	(869–060–00174–3)	32.00	Oct. 1, 2006
414–429	(869–060–00175–1)	32.00	Oct. 1, 2006
430–End	(869–060–00176–0)	64.00	Oct. 1, 2006
43 Parts:			
1–999	(869–060–00177–8)	56.00	Oct. 1, 2006
1000–end	(869–060–00178–6)	62.00	Oct. 1, 2006
44	(869–060–00179–4)	50.00	Oct. 1, 2006
45 Parts:			
1–199	(869–060–00180–8)	60.00	Oct. 1, 2006
200–499	(869–060–00181–6)	34.00	Oct. 1, 2006
500–1199	(869–060–00182–4)	56.00	Oct. 1, 2006
1200–End	(869–060–00183–2)	61.00	Oct. 1, 2006
46 Parts:			
1–40	(869–060–00184–1)	46.00	Oct. 1, 2006
41–69	(869–060–00185–9)	39.00	Oct. 1, 2006
70–89	(869–060–00186–7)	14.00	Oct. 1, 2006
90–139	(869–060–00187–5)	44.00	Oct. 1, 2006
140–155	(869–060–00188–3)	25.00	Oct. 1, 2006
156–165	(869–060–00189–1)	34.00	Oct. 1, 2006
166–199	(869–060–00190–5)	46.00	Oct. 1, 2006
200–499	(869–060–00191–3)	40.00	Oct. 1, 2006
500–End	(869–060–00192–1)	25.00	Oct. 1, 2006
47 Parts:			
0–19	(869–060–00193–0)	61.00	Oct. 1, 2006
20–39	(869–060–00194–8)	46.00	Oct. 1, 2006
40–69	(869–060–00195–6)	40.00	Oct. 1, 2006
70–79	(869–060–00196–4)	61.00	Oct. 1, 2006
80–End	(869–060–00197–2)	61.00	Oct. 1, 2006
48 Chapters:			
1 (Parts 1–51)	(869–060–00198–1)	63.00	Oct. 1, 2006
1 (Parts 52–99)	(869–060–00199–9)	49.00	Oct. 1, 2006
2 (Parts 201–299)	(869–060–00200–6)	50.00	Oct. 1, 2006
3–6	(869–060–00201–4)	34.00	Oct. 1, 2006

Title	Stock Number	Price	Revision Date
7–14	(869–060–00202–2)	56.00	Oct. 1, 2006
15–28	(869–060–00203–1)	47.00	Oct. 1, 2006
29–End	(869–060–00204–9)	47.00	Oct. 1, 2006
49 Parts:			
1–99	(869–060–00205–7)	60.00	Oct. 1, 2006
100–185	(869–060–00206–5)	63.00	Oct. 1, 2006
186–199	(869–060–00207–3)	23.00	Oct. 1, 2006
200–299	(869–060–00208–1)	32.00	Oct. 1, 2006
300–399	(869–060–00209–0)	32.00	Oct. 1, 2006
400–599	(869–060–00210–3)	64.00	Oct. 1, 2006
600–999	(869–060–00211–1)	19.00	Oct. 1, 2006
1000–1199	(869–060–00212–0)	28.00	Oct. 1, 2006
1200–End	(869–060–00213–8)	34.00	Oct. 1, 2006
50 Parts:			
1–16	(869–060–00214–6)	11.00	[10] Oct. 1, 2006
17.1–17.95(b)	(869–060–00215–4)	32.00	Oct. 1, 2006
17.95(c)–end	(869–060–00216–2)	32.00	Oct. 1, 2006
17.96–17.99(h)	(869–060–00217–1)	61.00	Oct. 1, 2006
17.99(i)–end and 17.100–end	(869–060–00218–9)	47.00	[10] Oct. 1, 2006
18–199	(869–060–00219–7)	50.00	Oct. 1, 2006
200–599	(869–060–00220–1)	45.00	Oct. 1, 2006
600–659	(869–060–00221–9)	31.00	Oct. 1, 2006
660–End	(869–060–00222–7)	31.00	Oct. 1, 2006
CFR Index and Findings Aids	(869–062–00050–2)	62.00	Jan. 1, 2007
Complete 2007 CFR set		1,389.00	2007
Microfiche CFR Edition:			
Subscription (mailed as issued)		332.00	2007
Individual copies		4.00	2007
Complete set (one-time mailing)		332.00	2006
Complete set (one-time mailing)		325.00	2005

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period January 1, 2005, through January 1, 2006. The CFR volume issued as of January 1, 2005 should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 2006, through January 1, 2007. The CFR volume issued as of January 6, 2006 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 2000, through April 1, 2006. The CFR volume issued as of April 1, 2000 should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 2006 through April 1, 2007. The CFR volume issued as of April 1, 2006 should be retained.

[8] No amendments to this volume were promulgated during the period July 1, 2005, through July 1, 2006. The CFR volume issued as of July 1, 2005 should be retained.

[9] No amendments to this volume were promulgated during the period July 1, 2006, through July 1, 2007. The CFR volume issued as of July 1, 2006 should be retained.

[10] No amendments to this volume were promulgated during the period October 1, 2005, through October 1, 2006. The CFR volume issued as of October 1, 2005 should be retained.